

SECTIONSITEMPAGE

FORT WAYNE CABLE COMMUNICATIONS ORDINANCE----

1.	Short Title-----	1
2.	Intent-----	2
3.	Definitions-----	2
3.1	Additional Subscriber Services-----	2
3.2	Agency Subscriber-----	2
3.3	Basic Subscriber Radio Service or BSRS--	2
3.4	Basic Subscriber Television Service-BSTS	3
3.5	Broadcast Signal-----	3
3.6	Cable Communications System-----	3
3.7	Cablecast Signal-----	3
3.8	Channel-----	3
3.9	City-----	4
3.10	Commercial Subscriber-----	4
3.11	Converter-----	4
3.12	Council-----	4
3.13	Depreciated Value-----	4
3.14	Educational Channel or Educational Access Channel-----	4
3.15	Fair Market Value-----	4
3.16	Government Channel or Government Access Channel-----	4
3.17	Grantee-----	4
3.18	Grantor-----	5
3.19	Gross Annual Subscriber Revenues-----	5
3.20	Institutional Services-----	5
3.21	Leased Channel or Leased Access Channel--	5
3.22	Local Origination Channel-----	5
3.23	Monitoring-----	5
3.24	Non-Broadcast Signal-----	6
3.25	Open Channel-----	6
3.26	Pay-Cable or Pay-Television-----	6
3.27	Person-----	6
3.28	Private Channel or Closed Circuit Channel-----	6
3.29	Programmer-----	6
3.30	Public Access Channel-----	6
3.31	Residential Subscriber-----	7
3.32	School-----	7
3.33	Streets and Alleys-----	7
3.34	Subscriber-----	7
3.35	Tapping-----	7
3.36	Year-----	8
4.	Cable Communications Regulatory Board Established-----	8
4.1	Cable Communications Regulatory Board Established-----	8
4.2	Powers and Duties of the Regulatory Board-----	9
4.3	Rules and Regulations-----	10
5.	Cable Television Program Advisory Council Established-----	10
5.1	Establishment of Cable Television Pro- gram Advisory Council-----	10
5.2	Advisory Council Duties-----	11

<u>SECTIONS</u>	<u>ITEM</u>	<u>PAGE</u>
	5.3 Advisory Council Rules and Procedure----	12
6.	Office of Cable Affairs Established-----	12
	6.1 Establishment of the Office of Cable Affairs-----	12
	6.2 Director of the Office of Cable Affairs	12
	6.3 Responsibilities of the Director-----	12
	6.4 Relationship to City Departments-----	14
7.	Regulatory Jurisdiction and Procedures-----	14
	7.1 Continuing Regulatory Jurisdiction-----	14
	7.2 Cable Communications Regulatory Board--	15
	7.3 Regulatory Procedures-----	16
8.	Grant of Authority-----	17
	8.1 Duration-----	17
	8.2 Franchise Not Exclusive-----	17
	8.3 Franchise Non-Transferable-----	18
	8.4 Change in Control-----	18
	8.5 Provision of Service Mandatory-----	19
9.	Termination and Renewal-----	19
	9.1 Revocation of Franchise-----	19
	9.2 Violations & Penalties of Non-Material Provisions-----	21
	9.3 Franchise Renewal or Extension-----	23
	9.4 Foreclosure-----	24
	9.5 Receivership-----	24
	9.6 Grantor Purchase of System Upon Revocation-----	25
	9.7 Grantor Purchase of System Upon Expiration-----	26
	9.8 Continuity of Service Mandatory-----	26
10.	Renegotiation Provisions-----	27
	10.1 Intent-----	27
	10.2 Quinquennial Renegotiation Sessions----	27
	10.3 Special Renegotiation Sessions-----	28
	10.4 Topics to be Negotiated-----	29
11.	Design and Construction-----	29
	11.1 System Design Concept-----	29
	11.2 Initial Channel Capacity-----	30
	11.3 Geographical Coverage-----	30
	11.4 Cablecasting Facilities-----	31
	11.5 Interconnection Required-----	31
	11.6 System Construction Schedule and Reports-----	32
	11.7 Provision of Service-----	34
	11.8 Undergrounding a Cable-----	34
	11.9 Construction Components and Techniques-----	34
	11.10 Technical and Performance Standards----	34
	11.11 Test and Compliance Procedure-----	34
	11.12 Emergency Requirements-----	35
	11.13 Construction Codes-----	35
	11.14 Construction and Use of Poles-----	35
	11.15 Restoration of Streets-----	36
	11.16 Reservation of Rights in Grantor-----	36
	11.17 Trimming of Trees-----	37
	11.18 Use of Poles and Conduits by Grantor----	37
	11.19 Common User-----	37

<u>SECTIONS</u>	<u>ITEM</u>	<u>PAGE</u>
12.	Service Provisions-----	37
12.1	Services to be Provided-----	37
12.2	Basic Subscriber Television Service-----	38
12.3	Basic Subscriber Radio Service-----	38
12.4	Local Origination Channel-----	38
12.5	Government Access Channel-----	38
12.6	Educational Access Channel-----	38
12.7	Public Access Channel-----	39
12.8	Leased Access Channels-----	39
13.	Operation and Maintenance-----	39
13.1	Open Books and Records-----	39
13.2	Communications with Regulatory Agencies-----	39
13.3	Annual Report-----	40
13.4	Maintenance and Complaints-----	40
13.5	Safety-----	42
14.	Regulation of Rates-----	42
14.1	Charges Permitted and Regulated-----	42
14.2	Schedule of Rates-----	42
14.3	Changes in Rates-----	43
14.4	Advance Charges and Deposits-----	43
14.5	Installation and Reconnection-----	43
14.6	Disconnection-----	43
14.7	Refunds to Subscribers and Programmers-----	44
15.	General Financial, Insurance and Indemnity Provisions-----	45
15.1	Payment to the Grantor-----	45
15.2	Insurance Policies and Security Fund-----	46
15.3	Indemnity-----	49
16.	Rights Reserved to the Grantor-----	50
16.1	Additional Regulations-----	50
16.2	Right to Purchase the System-----	51
16.3	Right of Inspection of Construction-----	51
16.4	Right of Intervention-----	51
16.5	Right to Require Removal of Property-----	51
16.6	Special License-----	52
16.7	Compliance with Local Laws-----	52
17.	Rights Reserved to the Grantee-----	52
17.1	Right of Appeal to Grantor-----	52
18.	Rights of Individuals Protected-----	52
18.1	Discriminatory Practices Prohibited-----	52
18.2	Cable Tapping Prohibited-----	53
18.3	Cable Monitoring Prohibited-----	53
18.4	Privacy and Other Human Rights-----	53
18.5	Permission of Property Owner Required-----	54
18.6	Sale of Subscriber Lists Prohibited-----	54
18.7	Liability-----	54
18.8	Censorship-----	54
19.	Resolution of Disputes-----	55
19.1	Intent-----	55
19.2	Fact Finding-----	55
19.3	Mediation-----	55
19.4	Arbitration-----	56
19.5	Selection Procedures-----	56
19.6	Fees and Expenses-----	57

SECTIONSITEMPAGE

20.	Miscellaneous Provisions-----	57
20.1	Compliance with Laws-----	57
20.2	Severability-----	57
20.3	Captions-----	58
20.4	Nonenforcement by the Grantor-----	58
20.5	Acceptance-----	58
20.6	Day-to-Day Enforcement-----	59
20.7	Conflicts Between Documents-----	59
20.8	Amendments to this Ordinance-----	59
20.9	Subsequent Action by State or Federal Agencies-----	59
20.10	Time Essence of Agreement-----	59
20.11	Publication Costs-----	60
21.	Franchise Applications-----	60
21.1	Application Fee-----	60
21.2	Application Information-----	60
21.3	Clarifying Information-----	64
21.4	Bid Bond-----	65
21.5	Evaluation of Applications-----	65

1 BILL NO. G-76-05- 88

2
3 *General* ORDINANCE G- _____

4 AN ORDINANCE PROVIDING FOR THE GRANT OF
5 A FRANCHISE TO OPERATE A CABLE COMMUNI-
6 CATIONS SYSTEM IN THE CITY OF FORT WAYNE,
7 INDIANA, AND PROVIDING FOR REGULATION
8 OF SAID SYSTEM.

9 WHEREAS, the Board of Public Works of the City of Fort
10 Wayne, Indiana, through its Cable Project, has generated
11 community awareness of pertinent cable communications issues
12 and has conducted preliminary investigations into cable
13 communications needs; and

14 WHEREAS, a Special Committee of the Common Council
15 of said City and the Board of Public Works of said City
16 have sat as a Cable Executive Committee; and

17 WHEREAS, said Committee has, among other things, appointed
18 four (4) community task forces to carry out studies of the
19 Cable TV communication potentials for education, medical
20 and health care, government, and the community at large;
21 and

22 WHEREAS, each of said task forces has submitted a report
23 dealing with its respective area of study; and

24 WHEREAS, the Common Council concurs in the recommendation
25 of the Board of Public Works that the citizens of the City
26 of Fort Wayne could benefit from a cable communications
27 serving the City and its citizens, and dedicated to the
28 public interest; and

29 WHEREAS, the Common Council and the Board of Public
30 Works have jointly held a full public hearing on _____,
31 at which time all members of the Fort Wayne community were
32 given the opportunity to present their opinions and comments
33 upon the awarding of this franchise to the Grantee.
34
35

NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL
OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. SHORT TITLE

This Instrument shall be known as the "Fort Wayne
Cable Communications Ordinance."

SECTION 2. INTENT

It is the intent of the Grantor, as hereinafter defined,
to grant a franchise pursuant to this Ordinance to operate
a City Cable Communications System to the Grantee, to define
the relationship between the Grantee and the Grantor; and
to provide regulation of the Cable Communication System
by the Grantor, for the duration of the franchise.

SECTION 3. DEFINITIONS

For purposes of this Ordinance the following terms,
phrases, words, abbreviations and their derivations shall
have the same meaning as given herein. When not inconsistent
with the context, words used in the present tense, include
the future; words in the plural number include the singular
number; and words in the singular number include the plural.
The word "shall" is always mandatory and not merely directory.

3.1 "Additional Subscriber Services" means any service
not included in "Basic Subscriber Television Service", or
"Basic Subscriber Radio Service" or "Institutional Services",
including, but not limited to, pay-cable.

3.2 "Agency Subscriber" means a subscriber who receives
a service in a public agency, school, or non-profit corporation.

3.3 "Basic Subscriber Radio Service" or "BSRS" means
the provision to all subscribers of such audio services

as the retransmission of broadcast AM or FM radio signals, the retransmission of shortwave, weather, news, time and other similar audio broadcast channels, and the transmission of cablecast AM or FM radio signals, as permitted by the FCC.

3.4 "Basic Subscriber Television Service" or "BSTS" means:

(a) the retransmission to all subscribers of all broadcast television channel signals authorized by the FCC and provided for herein; and

(b) the cablecasting to all subscribers of the local origination, public, educational and government access channel signals all as authorized by the FCC.

3.5 "Broadcast Signal" means a television or radio signal that is transmitted over-the-air to a wide geographic audience and is received by a Cable Communications System off-the-air or by microwave link.

3.6 "Cable Communications System" shall mean any system which receives and amplifies signals broadcast by one or more television and/or radio stations and which transmits programming originated by the system itself or by another party, and distributes such signals and programming by wire, cable, microwave, satellite or other means to persons who subscribe to such service.

3.7 "Cablecast Signal" means all non-broadcast signals carried on the cable communications system.

3.8 "Channel" means a frequency band which is capable of carrying either one standard video signal, a number of

audio, digital or other non-video signals, or some combination of such signals.

3.9 "City" means the City of Fort Wayne, Indiana, and all the territory within its corporate boundaries.

3.10 "Commercial Subscriber" means a subscriber who receives a service in a place of business, where the service is utilized in connection with a business, trade or profession.

3.11 "Converter" means an electronic device which converts signal carriers from one band of frequencies to another.

3.12 "Council" means the Common Council of the City.

3.13 "Depreciated Value" means the value as shown on the Grantee books and records of all the cable television system's tangible assets after allowance for depreciation which shall be calculated to the end of the Grantee's last preceding fiscal year. Said value shall not include "goodwill".

3.14 "Educational Channel" or "Educational Access Channel" means any channel for which educational institutions are the only designated programming.

3.15 "Fair Market Value" means the price that a willing buyer would pay to a willing seller for a going concern based on the system valuation, and sale multiples prevailing in the industry at a particular time.

3.16 "Government Channel" or "Government Access Channel" means any channel for which local government agencies and/or bodies are the only designated programmers.

3.17 "Grantee" means the applicant who shall be awarded, etc -- (see Section 6)

3.18 "Grantor" means the City of Fort Wayne, Indiana, acting through its Board of Public Works, Common Council, Mayor, or other appropriate governmental officials and/or agencies.

3.19 "Gross Annual Subscriber Revenues" means the annual gross revenues received by the Grantee from residential, commercial and agency subscribers for Basic Subscriber Television Service and Basic Subscriber Radio Service.

3.20 "Institutional Services" means video, audio, data and/or other services provided to institutional users on an individual application, pro-rate channel basis. These may include, but are not limited to, two-way video, audio or digital signals among institutions, or from institutions to residential subscribers.

3.21 "Leased Channel" or "Leased Access Channel" means any channel available for lease and programming by persons or entities other than the Grantee, including those portions of the other access channels not in use by their designated programmers.

3.22 "Local Origination Channel" means any channel where the Grantee is the designated programmer and which provides video or audio programs to subscribers.

3.23 "Monitoring" means the observing of a one-way communications signal, or the absence of a signal, where the observer is neither the subscriber nor the programmer, whether the signal is observe by visual or electronic means, for any purpose whatsoever.

3.24 "Non-Broadcast Signal" means a signal that is transmitted by a Cable Communications System and that is not involved in an over-the-air broadcast transmission path.

3.25 "Open Channel" means any channel that can be received by all subscribers, without the necessity for special equipment.

3.26 "Pay-Cable" or "Pay-Television" means the delivery to subscribers, over the Cable Communications System of television signals for a fee or charge to subscribers over and above the charge for Basic Subscriber Service, on a per program, per channel, or other subscription basis.

3.27 "Person" means any corporation, partnership, proprietorship, individual, joint venture, organization or other entity.

3.28 "Private Channel" or "Closed Circuit Channel" means any channel which is available only to subscribers who are provided with special converter or terminal equipment to receive signals on that channel.

3.29 "Programmer" means any person who produces or otherwise provides program material or information for transmission by video, audio, digital, or other signals, using live or recorded tapes or other storage media, to subscribers, by means of the cable communications system.

3.30 "Public Access Channel" means any channel for which any member of the general public may be a programmer on a first come, first serve, non-discriminatory basis, in accordance with Federal Communications Commission regulation

1
2
3
4 3.31 "Residential Subscriber" means a subscriber who
5 receives a service in an individual dwelling unit for private
6 viewing and/or listening, and not for profitable use or
7 in connection with a commercial business, trade or profession,
8 but does not include subscribers to a Master Antenna System.
9

10 3.32 "School" means any accredited and/or licensed,
11 not-for-profit educational organization.
12

13 3.33 "Streets and Alleys" means the surface of and
14 the space above and below any public street, road, highway,
15 freeway, lane, path, place, alley, court, boulevard, parkway,
16 drive or other easement now or hereafter held by the City
17 for the purpose of public travel and shall include other
18 easements or rights-of-way as shall now be held or hereafter
19 held by the City and/or its Grantee to the use thereof for
20 the purpose of installing or transmitting cable communications
21 system transmissions over poles, wires, cables, conductors,
22 ducts, conduits, vaults, manholes, amplifiers, appliances,
23 attachments, and other property as may be ordinarily necessary
24 and pertinent to a cable communications system.
25

26 3.34 "Subscriber" means any person who elects to subscribe
27 to, for any purpose, a service provided by the Grantee by
28 means of or in connection with the cable communications
29 system.
30

31 3.35 "Tapping" means observing a two-way communications
32 signal exchange, where the observer is neither of the commun-
33 icating parties, whether the exchange is observed by visual
34 or electronic means, for any purpose whatsoever.
35

3.36 "Year" means the calendar year ending on December 31.

SECTION 4. CABLE COMMUNICATIONS REGULATORY BOARD ESTABLISHED

4.1 Cable Communications Regulatory Board Established.

There is established a Cable Communications Regulatory Board, composed of seven (7) voting members and one (1) non-voting member, to-wit:

(a) Five (5) citizens, to serve as voting members, appointed by the Mayor, subject to the approval of the Common Council, for a term of three (3) years; except the first appointees shall be appointed one (1) for a term of one (1) year; two (2) for a term of two (2) years; and two (2) for a term of three (3) years; and thereafter each for a term of three (3) years.

(b) One (1) voting member of the Board of Public Works to be appointed at their annual meeting.

(c) One (1) voting member of the Common Council from among its members to be appointed at their annual meeting for the election of officers of the Council.

(d) The Director of the Office of Cable Affairs shall serve as a non-voting member of the Cable Communications Regulatory Board.

At least two (2) weeks before any citizens are appointed to the Cable Communications Regulatory Board, written applications from interested citizens who are willing and able to serve on said Board shall be accepted. The Mayor shall consider the applications submitted by citizens as well as other citizens as may come to the attention of the Mayor

as being qualified and every effort shall be made to make such Board as broadly representative of the citizens of Fort Wayne as possible.

4.2 Powers and Duties of the Regulatory Board. The duties of the Regulatory Board, in addition to those set forth in Section 7 shall be as follows, to-wit:

(a) Resolving disputes or disagreements between subscribers and the Grantee after investigation should the subscriber and the Grantee not first be able to resolve their dispute or disagreement, based on the report and recommendations of the Director of the Office of Cable Affairs.

(b) Reviewing and auditing reports submitted to the City as required by Section 11.6 and Section 13.3 and such other correspondence as submitted to the City concerning the operation of the Cable Communications System so as to insure that the necessary reports are completed and fulfilled pursuant to the terms of the ordinance.

(c) Work with the public and the media to assure that all records, rules and charges pertinent to the Cable Communications System in the City of Fort Wayne are made available for inspection at reasonable hours upon reasonable notice.

(d) Confer with the Grantee and advise on the interconnection of the City's cable system with other cable and communication systems.

(e) Solicit, review and provide recommendations to the Common Council for selection of applicants for franchise under the provisions of Sections 21 and 9.

(f) Initiate inquiries, receive requests for review of rates charged by the Grantee, and provide recommendation on such actions to the Common Council.

(g) Establish and administer sanctions as authorized by the Common Council to insure compliance with this ordinance.

(h) Such other duties as the Common Council may assign to the Cable Communications Regulatory Board. The findings of the Board shall be final, subject to written appeal to the Common Council. The decision of the Common Council shall be final.

4.3 Rules and Regulations. The Board shall adopt such rules and regulations as are necessary to insure that due notice is given to all parties concerning any hearing on any complaints to said Board and the hearings are held promptly in accordance with reasonable notice to all parties. The Board shall also have such powers to include the election of its own officers.

SECTION 5. CABLE TELEVISION PROGRAM ADVISORY COUNCIL ESTABLISHED.

5.1 Establishment of Cable Television Program Advisory Council. There is established a Cable Television Program Advisory Council consisting of fifteen (15) persons with three (3) members each representing the public, educational and governmental users and six (6) persons chosen at large to be representative of the community; all fifteen (15) to be appointed by the Mayor subject to the approval of the Common Council. The first appointments shall be five (5) for a one (1) year term; five (5) for a two (2) year term and five (5) for a three (3) year term; and thereafter

all appointments shall be for three (3) year terms. It is recommended that each group of five (5) initial appointments be representative of the four categories described - three (3) from the users and two (2) persons at large.

At least two (2) weeks before any persons are appointed to the Cable Television Program Advisory Council, written applications from interested persons who are willing and able to serve on said Council shall be requested. Such applications shall clearly indicate the category that a person would be representing. In making recommendations for said Board, the Mayor shall consider the applications submitted by persons as well as such other persons as may come to the attention of the Mayor as being qualified.

5.2 Advisory Council Duties. The Cable Television Program Advisory Council shall perform the following functions:

(a) To make recommendations to the Grantee of the Cable Communications System and to the educational and governmental users of the educational and governmental access channels.

(b) To insure that the Grantee makes the public access channel available to all residents of the City on a nondiscriminatory basis.

(c) To assure that the operation of the public access channel be free of program censorship and control.

(d) To perform such other duties and functions relative to the public access channel as may be appropriate.

(e) To make recommendations to the Grantee on the procedural aspects of the public access channel.

5.3 Advisory Council Rules and Procedures. The Advisory Council shall have the authority to submit proposed rules and regulations for the conduct of its business to the Mayor and Council for approval, and upon approval, shall have the right to hold hearings and make recommendations to the Grantee of the Cable Communications System and to the educational and governmental communities on the coordination of the educational and government access channels. All such actions shall only be advisory.

SECTION 6. OFFICE OF CABLE AFFAIRS ESTABLISHED.

6.1 Establishment of the Office of Cable Affairs.

There is hereby created an Office of Cable Affairs within the Board of Public Works for the purpose of exercising the City's continuing regulatory jurisdiction over any franchise granted by the City of Fort Wayne for the operation of a Cable Communications System.

6.2 Director of the Office of Cable Affairs. The Office of Cable Affairs shall be managed and directed by a Director of the Office of Cable Affairs who shall be appointed by the Mayor, subject to the approval of the Common Council.

6.3 Responsibilities of the Director. The Director of the Office of Cable Affairs shall be charged with the responsibilities of representing the City of Fort Wayne in the following matters:

(a) Receive and investigate such complaints, disputes or disagreements as may be directed or referred to the City of Fort Wayne, between subscribers and Grantees of a Cable Communications System and other distribution

systems interconnected with the Cable Communications System, not first able to resolve their differences.

(b) Report his recommendations upon complaints, disputes or disagreements after investigation, to the Cable Communications Regulatory Board for the issuance of finding.

(c) Review and audit reports, records, communications and Grantee regulations submitted to the City of Fort Wayne and conducting such inspections of the system as may be necessary in support of such review as provided for in the City of Fort Wayne Cable Communications Franchise Enabling Ordinance.

(d) The Director shall work with the public and the media to assure that all tariffs, rates, charges and rules pertinent to the operation of the Cable Communications System in the City of Fort Wayne are made available for inspection by the public at reasonable hours and upon reasonable request.

(e) The Director shall confer and coordinate with the Grantee on the interconnections of the City's Cable Communications System with other similar networks.

(f) The Director shall be a non-voting member of the Cable Communications Regulatory Board.

(g) Such other duties, including administration services as the Common Council and Regulatory Board may assign to the Office of Cable Affairs and are necessary to facilitate the functions of the Office of Cable Affairs and the Cable Communications Regulatory Board.

(h) The Director shall facilitate the operation of the Program Advisory Council.

6.4 Relationship to City Departments. All departments of the City government shall cooperate with the Director of the Office of Cable Affairs to the end that he may discharge his duties and responsibilities as contemplated by this ordinance. Departments are directed to cooperate fully with the Director of the Office of Cable Affairs in this purpose.

(a) All City departments shall make available all such information pertaining to the Cable Communications System as may be required by the Director of the Office of Cable Affairs.

(b) The Director of the Office of Cable Affairs shall keep the City department heads informed on matters pertaining to the Cable Communications System which affect their operation.

(c) The City Attorney or his designated assistant shall provide legal counsel to the Director of the Office of Cable Affairs.

SECTION 7. REGULATORY JURISDICTION AND PROCEDURES.

7.1 Continuing Regulatory Jurisdiction. The City shall have continuing regulatory jurisdiction and supervision over the operation of any franchise granted hereunder and may from time to time adopt such reasonable rules and regulations as it may deem necessary for the conduct of the business contemplated thereunder.

7.2 Cable Communications Regulatory Board. The continuing regulatory jurisdiction of the City shall be exercised by a City department and/or agency and/or through a Cable Communications Regulatory Board, that the City may establish. The Board, department or agency established or appointed to exercise the City's continuing regulatory jurisdiction shall have the following responsibilities and duties and such other responsibilities and duties that the Common Council may assign to it:

(a) Resolving disputes or disagreements between subscribers and the Grantee after investigation, should the subscriber and the Grantee not first be able to resolve their dispute or disagreement. Said decisions or findings may be appealed, as set forth in Section 19.

(b) Reviewing and auditing all reports and filings submitted to the City as required hereunder and such other correspondence as may be submitted to the City concerning the operation of the Cable Communications System. Review the rules and regulations set by the Grantee under the provisions of Section 12.7 herein.

(c) Assuring that all tariffs, rates and rules pertinent to the operation of the Cable Communications System in the City of Fort Wayne are made available for inspection by the public at reasonable hours and upon reasonable request.

(d) Conferring and coordinating with the Grantee on the interconnection of the City's Cable Communications System with other similar networks.

(e) Reviewing rates and recommending any rate

changes to the Common Council as provided in Section 14 of this ordinance.

(f) Allocating funds it deems necessary to assist Production and programming on the public access channels.

7.3 Regulatory Procedures.

(a) The Cable Communications Regulatory Board shall first consider any inquiry or proceeding requiring Common Council action to be taken in regard to the Cable Communications System or franchise, whether upon application or request by the Grantee or any other party or on its own motion and shall submit such consideration, together with the Board's recommendation, to the Common Council within sixty (60) days of the receipt of such request unless such time shall be extended by agreement between the Board and the requesting party. Any action by the Common Council on any Board recommendation shall be taken only after thirty (30) days notice of said proposed action, inquiry, or proceeding is published in the official newspaper having general circulation and a copy of said notice is served upon the Grantee. The Grantee shall have an opportunity to respond at the hearing and/or in writing. Members of the public shall have an opportunity to respond or comment in writing on the proposed action and appear at said proceeding or hearing, however, such hearing or proceeding shall be set no later than ninety (90) days after notice to the Grantee and the Common Council shall act upon this proceeding within one hundred eighty (180) days of the notice of hearing unless such time is extended by agreement between the City and the Grantee.

(b) The public notice required by this section shall state clearly the action or proposed action to be taken, the time provided for response, including response by the public, the person or persons in authority to whom such responses shall be addressed and such other procedures as may be specified by the Common Council. If a hearing is to be held, the public notice shall give the date, location and time of such hearing. The Grantee is a necessary party to any hearing conducted in regard to its operation.

SECTION 8. GRANT OF AUTHORITY. The Common Council of the City of Fort Wayne hereby creates the right, privilege and franchise to construct, operate and maintain a Cable Communications System through the public ways of the City, subject to the conditions and restrictions as provided herein;

8.1 Duration. The term of the franchise and all rights, privileges, obligations and restrictions pertaining thereto shall be 15 years from the effective date of the franchise unless terminated sooner as hereinafter provided. The franchise shall be effective upon the enactment of this ordinance, however, should the Grantee fail to file with the Secretary of the Board of Public Works a written acceptance of the franchise as provided in Section 20.5, this franchise shall be null and void.

8.2 Franchise Not Exclusive. The franchise shall not place any limitation upon the right of the Grantor, through its proper officers, to grant to other persons rights, privileges or authority similar to or different from the rights, privileges or authority herein set forth, in the same or other streets, alleys and public highways or public

places by franchise, permit or otherwise.

8.3 Franchise Non-Transferable. This franchise shall not be transferred or assigned, either in whole or in part, or leased, sublet, or mortgaged in any manner, nor shall title thereto, either legal or equitable, or any right, interest or property therein, pass on or vest in any person, except the Grantee or any subsidiary thereof, either by act of the Grantee or by operation of law, without the consent of the Grantor. The granting, denying or waiving of any one or more of such consents shall not render unnecessary any subsequent consent.

8.4 Change in Control. For the purpose of this section the term "control" is not limited to majority stock ownership, but includes actual working control in whatever manner exercised. The Grantee shall promptly notify the Grantor of any actual or proposed change in, or transfer of, or acquisition by any other party of ten (10%) percent of the voting shares of the Grantee. Every change, transfer or acquisition of control of the Grantee with respect to which the consent of the Grantor is required, pursuant to Section 8.3, shall make this franchise subject to revocation unless and until the Grantor shall have consented thereto. For the purpose of determining whether it will consent to such change, transfer, or acquisition of control, the Grantor may inquire into the qualifications of the prospective controlling party, and the Grantee shall offer all reasonable assistance to the Grantor in such inquiry. If the Grantor does not schedule a public hearing on the matter within

sixty (60) days after notice of the change or proposed change and the filing of a petition requesting its consent, the Grantor shall be presumed to have consented. In the event that the Grantor adopts a resolution denying its consent, and such change, transfer, or acquisition of control has been affected, the Grantor may revoke this franchise unless control of the Grantee is restored to its status prior to the change, or to a status acceptable to the Grantor. Nothing in this section shall be deemed to prohibit a mortgage or pledge of the Cable Communications System or any part thereof, for financing purposes or otherwise. Any such mortgage, pledge, or lease shall be subject and subordinate to the rights of the Grantor under this franchise or applicable law.

8.5 Provision of Service Mandatory. Except where specifically stated otherwise in this franchise, the Grantee shall arrange to provide ^{BSR-2215} ~~all~~ services requested by potential users of said services to the extent that the users are willing to pay for said service. If no rate has been established for a particular service, the procedures established in the section of the franchise entitled "Changes in Rate" shall be followed.

SECTION 9. TERMINATION AND RENEWAL

9.1 Revocation of Franchise.

(a) The City may terminate the franchise and any or all rights and privileges of the Grantee hereunder in any of the following events or for any of the following reasons:

(i) The Grantee, by act or omission having

violated any material term or condition of this franchise and having received written demand by the City to affect compliance with this ordinance, fail to comply with the provisions in question.

(ii) Any provision of this ordinance shall be finally adjudged by a court of law invalid or unenforceable and the Grantor further finds that such provision constitutes at that time a consideration material to the continuance of the franchise herein granted.

delete
VR
7/7/76

(iii) A Grantee becomes insolvent, unable, or unwilling to pay its debts, or is adjudged bankrupt, or all or part of Grantee's facilities should be sold under an instrument to secure a debt and are not redeemable by Grantee within thirty (30) days from said sale.

(iv) A Grantee attempts to or does practice any serious fraud or deceit in its conduct or relations under the franchise with the Grantor or subscribers or potential subscribers.

(b) No revocation shall be affected unless or until the Board of Works shall have proposed, and the Common Council approved, an ordinance setting forth the cause and reasons for the revocation and the effective date thereof. Such ordinance shall not be enacted without thirty (30) days prior notice to the Grantee and an opportunity for Grantee to be heard in a public hearing upon the proposed action. In the event the revocation depends upon a finding of fact, such finding of fact adopted by the Common Council shall be conclusive.

9.2 Violations & Penalties of Non-Material Provisions.

(a) For violations of non-material provisions of this ordinance the penalties shall be chargeable to Security Fund as follows:

(i) For failure to submit plans indicating expected dates of installation of various parts of the System as provided for in Section 11.6 . . . \$100.00 per day.

(ii) For failure to provide data and reports as requested by the Cable Communications Regulatory Board as required in Section 13 . . . \$50.00 per day.

(iii) For persistent failure to comply with reasonable recommendations of the Cable Communications Regulatory Board relating to rates or services as provided for in Section 14 ~~and such reasonable requests or recommendations as may be made pursuant to authority granted by this ordinance.~~ . . . \$50.00 per day. *delete per vca 7/7/76*

(iv) For failure to restore the cash deposit as required in Section 15.2 within the specified thirty (30) days, the entire cash deposits remaining, if any, shall be forfeited.

(b) The penalties for inadequate service shall be levied according to the following scale:

(i) In the event that its service to any subscriber is interrupted for twenty-four (24) consecutive hours, except for acts of God, and except in circumstances for which prior approval of the interruption is obtained from the Cable Communications Regulatory Board, grantee shall

*Amend 9.2 b i, ii, iii, iv, v
per TeleCable*

provide a ten (10%) percent rebate of the monthly fees to affected subscribers.

(ii) In the event that its service to any subscriber is interrupted for forty-eight (48) or more consecutive hours, except for acts of God, and except for circumstances for which the prior approval of the interruption is obtained from the Cable Communications Regulatory Board, Grantee shall provide a twenty (20%) percent rebate of the monthly fees to affected subscribers.

(iii) In the event that the system fails to meet any ^{material} performance standards ^{agreed upon by grantee & grantor} for a full three (3) month period, Grantee shall reduce ~~all~~ ^{of all those directly affected} subscriber fees by twenty-five (25%) percent until all performance standards are met.
The Cable Communications Regulatory Board shall notify the Grantee during the first month of the three (3) month period that the system has failed to meet performance standards.

(iv) For failure to commence operations in accordance with Section 11.6, unless the Cable Communications Regulatory Board approves the delay because of reasons beyond the control of the franchisee, the franchise term shall be reduced one (1) year per each three (3) month delay.

(v) For failure to complete construction and installation of the system as provided for in Section 11.6, unless the Cable Communications Regulatory Board approves the delay because of reasons beyond the control of the franchisee, the franchise term shall be reduced one (1) years per each three (3) months delay. The Board shall notify the Grantee during the first

month of the three (3) month period that the system has failed to meet performance standards.

(c) The Grantee may appeal any penalty which it considers unreasonable as provided for in Section 19 of this ordinance.

9.3 Franchise Renewal or Extension.

(a) This franchise may be renewed or extended by the Grantor, upon application of the Grantee, in accordance with the then existing rules of the FCC and applicable law. Nothing in this provision shall be construed to require or deny such renewal or extension.

(b) The Board of Public Works in conjunction with Common Council shall hold a public hearing not less than eighteen (18) months prior to the franchise expiration date, to review the Grantee's performance during the entire term of its franchise, to consider the adequacy of the franchise from the standpoint of the Grantor, the Grantee, and the Federal Communications Commission Rules for Cable Television, and to determine the advisability of renewing the Grantee's franchise for a period not inconsistent with federal law and regulation.

(c) The Board and Common Council shall hear all interested persons during said hearing and shall determine whether or not the Grantee did reasonably comply with the terms and conditions imposed by this ordinance and the franchise

(d) If the Grantor determines that the Grantee has been in reasonable compliance with the terms and conditions imposed by this ordinance and franchise the Grantor may

renew the Grantee's franchise for a period of time not inconsistent with the then prevailing rules of the FCC Rules for Cable Television.

(e) Notwithstanding the fact that the Board may determine that the Grantee has been in reasonable compliance with the terms and conditions imposed by this ordinance and franchise, it shall have the right not to renew the franchise in which event the Board shall, on the expiration date of the franchise, either purchase the assets of Grantee's Cable Communications System under the provisions of Section 9.7 or consistent with the provisions of Section 21, select a new Grantee and cause such new Grantee to purchase the assets at fair market value plus goodwill, or under Section 21 cause such new Grantee to purchase the assets at book value less depreciated original cost. The Council shall approve the new Grantee so selected and the franchise awarded such new Grantee by ordinance.

9.4 Foreclosure. Upon the foreclosure or other judicial sale of all or a substantial part of the System, or upon the termination of any lease covering all or a substantial part of the System, the Grantee shall notify the Grantor of such fact, and such notification shall be treated as a notification that a change in control of the Grantee has taken place, and the provisions of the section of this ordinance entitled "Change of Control" shall apply.

9.5 Receivership. The Grantor shall have the right to revoke this franchise one hundred and twenty (120) days after the appointment of a receiver or trustee, to take over

Amend per Tele-Cable Compact

and conduct the business of the Grantee, whether in receivership, reorganization, bankruptcy, or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred and twenty (120) days or unless:

(a) Within one hundred and twenty (120) days after his election or appointment, such receiver or trustee shall have fully complied with all the provisions of this ordinance and remedied all defaults thereunder; and

(b) Such receiver or trustee, within said one hundred and twenty (120) days, shall have executed an agreement, duly approved by the court having jurisdiction in the premises, whereby such receiver or trustee assumes and agrees to be bound by each and every provision of this ordinance.

9.6 Grantor Purchase of System Upon Revocation. In the event that the Grantor revokes this franchise, pursuant to appropriate provisions of this ordinance, the Grantor shall have the right and option to purchase the Cable Communications System at a price not to exceed its then book value (that is, the original cost of property less accumulated depreciation). The book value shall be determined by the Grantor in accordance with generally accepted appraisal and accounting principles. Under no circumstances shall any valuation be made for goodwill or any right or privilege granted by this ordinance. Should a dispute arise over the determination of the book value of the System, the dispute shall be resolved by arbitration as provided in

the section of this ordinance entitled "Resolution of Disputes."

9.7 Grantor Purchase of System Upon Expiration. The Grantor shall have the right and option to purchase the Cable Communications System upon expiration of this franchise agreement. The Grantor, shall during the fourteenth year of this ordinance, initiate procedures to determine the advisability and feasibility of the purchase of the System of the Grantor. Should the Grantor decide to purchase the System, it shall do so at its then fair value. In determining the fair value of the System, the original cost of all tangible and intangible property, as well as the salvage value, the book value, the replacement cost, cash flow, and other factors, including goodwill, may be considered. Should a dispute arise over the determination of the fair value of the System, the dispute shall be resolved by arbitration as provided in the section of this ordinance entitled "Resolution of Disputes".

9.8 Continuity of Service Mandatory. It shall be the right of all subscribers to receive all available services insofar as their financial and other obligations to the Grantee are honored. In the event that the Grantee elects to over-build, rebuild, modify, or sell the System, or the Grantor revokes or fails to renew the franchise agreement, or the Grantor elects to purchase the System, the Grantee shall do everything in its power to ensure that all subscribers receive continuous, uninterrupted service regardless of the circumstances. In the event of purchase by the Grantor, or

change of Grantee, the current Grantee shall cooperate with the City, or with the City, or with a representative appointed by Grantor to operate the System until the City or new Grantee has assumed complete control over the operation, in maintaining continuity of service to all subscribers.

SECTION 10. RENEGOTIATION PROVISIONS.

10.1 Intent. In recognition of the fact that a great many regulatory, technical, financial, marketing, and legal uncertainties are associated with all aspects of cable communications at the present time, the intent of the Grantor is to provide for the maximum feasible degree of flexibility in this ordinance throughout the term of the franchise. The principal means for accomplishing this flexibility will be renegotiation sessions provided for in this section. It is intended that such renegotiation sessions will serve as a means of cooperatively working out solutions to problems that develop.

10.2 Quinquennial Renegotiation Sessions. On or about the fifth and tenth anniversaries of the effective date of the franchise, the City will schedule a public meeting or meetings with the Grantee to review the franchise performance, plans and prospects. The City may require the Grantee to make available specified records, documents, and information for this purpose, and may inquire in particular whether the Grantee is supplying a level and variety of services equivalent to those being generally offered at that time in the industry in comparable market situations.

(a) The City shall first confer with the Grantee regarding modifications in the franchise which might impose additional obligations on the Grantee, and the Grantee may in turn seek to negotiate relaxations in any requirements previously imposed on it which are subsequently shown to be impractical.

(b) Within thirty (30) days of the conclusions of such negotiations, the City may direct the Grantee to show cause why specified terms and conditions should not be incorporated into the franchise and the Grantee may similarly file with the City a written request that specified obligations of its franchise be removed or relaxed. Implementation of such requests shall correspond as nearly as possible with the procedures set forth in Section 7.3. The Common Council shall order changes in the franchised rights and obligations of the Grantee only if it finds from all available evidence that such changes will not impair the economic viability of the system or degrade the attractiveness of the system's service to present and potential subscribers.

10.3 Special Renegotiation Sessions. Special renegotiation sessions owing to any subsequent action by the Federal Communications Commission, other federal or state regulatory body or any court of competent jurisdiction which poses substantive change in the ordinance may be held at any time during the term of the contract, provided that both the Grantor and the Grantee shall mutually agree upon the time, the place and the specific topics to be negotiated. All such renegotiated sessions shall be open to the public

and announced in a newspaper of general circulation at least ten (10) days prior to the first session and thereafter at least two (2) days before each session.

10.4 Topics to be Negotiated. The following topics shall be discussed at every scheduled renegotiation session:

- (a) Service rate structures;
- (b) Free and discounted services;
- (c) Application of new technologies;
- (d) System performance;
- (e) Services provided;
- (f) Programming offered;
- (g) Customer complaints;
- (h) Privacy and human rights; and
- (i) Amendments to this ordinance.

Ninety (90) days preceeding the scheduled renegotiation sessions, both parties shall publicly specify topics to be discussed. Topics, in addition to those listed, may be added if agreed upon by both parties. Members of the general public may add topics either by working through the negotiating parties, or by presenting a petition. If such petition bears the valid signatures of one hundred (100) or more qualified electors of the city, the proposed topic or topics shall be added to the list of topics to be discussed at the renegotiation session.

SECTION 11. DESIGN AND CONSTRUCTION.

11.1 System Design Concept. The cable communications system to be installed by Grantee shall comply in all respects with the capacity, capability and technical performance requirements set forth herein and in the FCC's Rules for

Cable Television. However, the FCC's standards are to be viewed as minimal standards, so that where the provisions of this franchise require a standard greater than that set by the FCC, the franchise provisions shall control. The system shall be expandable, with an initial configuration and expansion increments as set forth hereinafter.

11.2 Initial Channel Capacity. The Cable Communications System shall have an initial minimal on-line capacity to deliver to each subscriber at least twenty (20) outbound channels and three (3) inbound channels that can accept signals generated by specified locations.

11.3 Geographical Coverage. The Grantee shall design and construct the Cable Communications System in such a manner so as to make cable service reasonably available to every family dwelling unit, multiple-family dwelling unit and business establishment within the corporate boundaries of the City of Fort Wayne. The Grantee shall provide, without charge, one (1) service outlet to each fire station, school, and police station within the City and to such other municipally owned buildings, hospitals and libraries, as may be designated by the Grantor; provided however, that, if it is necessary to extend Grantee's trunk or feeder lines more than five hundred (500) feet solely to provide service to any such school or public building the Grantor shall have the option of either paying Grantee's direct costs for such extension, in excess of five hundred (500) feet or of releasing Grantee from the obligation to provide service to such buildings. Further, Grantee shall

be permitted to recover from any public or private building owner entitled to free service, the direct cost of installing more than one (1) outlet, or concealed inside wiring, or a service outlet requiring more than two hundred and fifty (250) feet of drop cable.

11.4 Cablecasting Facilities. The Grantee shall provide cablecasting facilities in accordance with the requirements of Appendix E. Such facilities shall remain the property of the Grantee, whether used for local origination or access cablecasting.

11.5 Interconnection Required. The Grantee shall interconnect the cable system with any or all other cable systems in adjacent areas, or elsewhere, upon the directive of the Grantor. Interconnection of systems may be done by direct cable connection, microwave link, satellite, or other appropriate method. Interconnection may be required for origination and access channels that are determined by Grantee and Grantor to be technically and economically feasible.

(a) Interconnection Procedure. Upon receiving the directive of the Grantor to interconnect, the Grantee shall immediately initiate negotiations with the other affected system or systems in order that costs may be shared equally for both construction and operation of the interconnection link.

(b) Relief. The Grantor may grant reasonable extensions of time to interconnect or rescind its request

to interconnect upon petition by the Grantee to the Cable Communications Regulatory Board. The Cable Communications Regulatory Board shall grant said request if it finds that the Grantee has negotiated in good faith and has failed to obtain an approval from the system or systems of the proposed interconnection, or that the cost of the interconnection would cause an unreasonable or unacceptable increase in subscriber rates.

(c) Cooperation Required. The Grantee shall cooperate with any interconnection corporation, regional interconnection authority or county, state or federal regulatory agency which may be hereafter established for the purpose of regulating, facilitating, financing, or otherwise providing for the interconnection of cable systems beyond the boundaries of the City.

(d) Initial Technical Requirements to Assure Future Interconnection Capability.

(i) All cable systems receiving franchises to operate within the City shall use the standard frequency allocations for television signals.

(ii) All cable systems are required to use signal processors at the headend for each television signal.

(iii) All local origination equipment is required to be compatible in order that videocassettes, or videotapes can be shared by various systems.

11.6 System Construction Schedule and Reports. Upon accepting this franchise, Grantee shall proceed with due

diligence to obtain all necessary permits and authorizations required for the conduct of its business, and shall submit monthly reports to the Grantor on progress in this regard until all such permits and authorizations have been secured. The Grantee shall expedite processing of any permits, incidental to this franchise, which are required by the City of Fort Wayne.

(a) The Grantee shall begin to offer BSTS within one (1) year after its receipt of the FCC Certificate of Compliance. The entire system shall be completely functional and in service within five (5) years after receipt of the FCC Certificate of Compliance, with at least twenty (20%) percent of the planned facilities in operation by the end of the first year, forty-five (45%) percent by the end of the second year and seventy (70%) percent by the end of the third year, with BSTS and BSRS being offered to all areas within the franchise area on a non-discriminatory completion schedule.

(b) Service need not be provided to those areas of the City where power and telephone utilities are not available.

(c) Within six (6) months after the effective date of the franchise, the Grantee shall present detailed plans and detailed construction schedule to the Grantor for review and approval. In addition, the Grantee shall update this information on a monthly showing specifically whether schedules are being met and the reason for any delay.

(d) The Grantee shall make application to the

FCC for certification within one hundred and twenty (120) days of the effective date of the franchise.

(e) Failure to receive a Certification of Compliance within two (2) years after the effective date of the franchise will be ground for franchise revocation, the option of the Grantor.

11.7 Provision of Service. After service has been established in a particular area, the Grantee shall provide service to any requesting subscriber within that area within thirty (30) days after the date of such request.

11.8 Undergrounding a Cable. The undergrounding of cables is encouraged. In any event, cable shall be installed underground where existing electric or telephone utilities, or both are already underground. In all cases where adequate space exists to permit Grantee to feasibly share existing underground facilities with electric and telephone companies such companies and the Grantee shall negotiate to share the facilities at reasonable costs. The Grantor shall offer reasonable assistance to the Grantee to facilitate successful negotiations with the electric and/or telephone companies for this purpose.

11.9 Construction Components and Techniques. Construction components and techniques shall be in accordance with Appendix A.

11.10 Technical and Performance Standards. System technical and performance standards shall be in accordance with Appendix B.

11.11 Test and Compliance Procedure. The Grantee shall submit concurrently with its franchise application, a detailed test plan describing the methods and schedules for testing the Cable Communications System on an ongoing basis to determine compliance with the provisions of Appendix B. The

tests for Appendix B shall be performed once a month, on a minimum of twenty (20) subscriber television receivers, located throughout the franchise service area. At least eight (8) of these locations shall be at the far end of the distribution trunk cables. The tests may be witnessed by representatives of the Grantor, and written test reports shall be submitted to the Grantor. If more than ten (10%) percent of the locations tested fail to meet the performance standards, the Grantee shall be required to indicate what corrective measures have been or will be taken, and the entire test shall be repeated for at least twenty (20) different locations.

11.12 Emergency Requirements. The Grantee shall design and construct the system to provide for a restricted audio override of all audio channels for use during emergencies. Such plans shall be submitted to the Board of Public Safety and the City for review and approval.

11.13 Construction Codes. The Grantee shall strictly adhere to all applicable building and zoning codes. The Grantee shall arrange its lines, cables and other appurtenances, on both public and private property, in such a manner as to cause no unreasonable interference with the use of said public or private property by any person.

11.14 Construction and Use of Poles. With the intent of minimizing the number of utility poles within the City, the Grantee is required to negotiate in good faith with other public and municipal utilities operating within the City for access and use of utility poles already standing. Only in the event such negotiations fail to effect access and use of existing poles for the Grantee, shall it be lawful for the Grantee to erect its own utility poles for use in

the Cable Communications System. Such construction of each such pole must be approved in advance by the Grantor, upon a showing that either poles were not in existence where needed, or that where poles were previously standing, negotiations with other utilities failed to produce an agreement for Grantee's use of such poles.

11.15 Restoration of Streets. Whenever the Grantee shall disrupt the surface of any street or public way for the purpose mentioned herein, he shall restore the same to the condition in which it was prior to the opening thereof, and when any opening is made by the Grantee in any hard surface pavement in any street or public way the Grantee shall promptly refill the opening and restore the pavement. The Grantor may refill and/or repave in case of neglect of the Grantee the cost thereof, including the cost of inspection and supervision, shall be paid by the Grantee. All excavations made by the Grantee in the streets and public ways shall be properly safeguarded for the prevention of accidents. The work hereby required shall be done in strict compliance with the rules, regulations and ordinances of the Grantor as now or hereinafter provided.

11.16 Reservation of Rights in Grantor. Nothing in this ordinance shall prevent the Grantor from exercising all of its rights, duties and obligations regarding use, construction and maintenance of public rights-of-way, municipal utilities or any other public works. Grantees rights under this franchise shall at all times be secondary to the Grantor's rights, duties and obligations. Should any of Grantee's structures, cables or other facilities have to be moved temporarily or permanently to provide for the public health, safety or convenience as determined by Grantor, the costs of relocating same shall be borne by the Grantee.

11.17 Trimming of Trees. Nothing contained in this ordinance or subsequent franchise agreement shall be deemed to empower or authorize Grantee to cut or trim any trees, ornamental or otherwise in any of the streets or public ways, without the prior agreement of the owner of property which is adjacent to the street area in which such tree stands. The Park Department of the City shall set all rules and procedures with regard to trimming of trees by Grantee.

11.18 Use of Poles and Conduits by Grantor. The Grantee shall permit the Grantor to fasten wires and cables and stretch such wires and cables on any and all poles of the Grantee, provided that the Grantee shall not be responsible for any damage resulting to the wires, cables or property of the Grantor which might result from such use of its poles by the Grantor.

11.19 Common User. Whenever in the judgment of the Grantor it is deemed impracticable to permit the erection of poles or construction of an underground conduit system by any other utility which may at the time have authority to construct or maintain a conduit or poles in the area of the streets and public ways, the Grantor may require the Grantee herein to afford to such utility the right to use such of the poles or facilities of the Grantee as the Grantor finds practicable in common with the Grantee, both parties sharing the costs incident thereto and under such rules and regulations as they may agree upon, but in case they fail to agree within a reasonable time, then upon such terms, conditions and regulations governing the same as the Grantor may determine to be just and reasonable.

SECTION 12. SERVICE PROVISIONS

12.1 Services to be Provided. The Cable Communications

System shall provide, as a minimum, the services listed in Appendix D.

12.2 Basic Subscriber Television Service. The "Basic Subscriber Television Service" shall include the FCC-required services and the distant television broadcast signals. This service shall be provided to all subscribers at the established BSTS monthly subscription rates.

12.3 Basic Subscriber Radio Service. The "Basic Subscriber Radio Service" shall include the provisions of all designated audio services, including broadcast FM and AM radio, shortwave, and cablecast FM signals. This service shall be provided to all subscribers at the established BSRS monthly subscription rates.

12.4 Local Origination Channel. The Grantee shall operate a high quality, professionally staffed studio for the purpose of providing cablecast programming of a local nature, as well as selected sports and cultural events of interest to Fort Wayne citizens. The emphasis for this channel shall be on providing high quality programming that is unavailable to Fort Wayne viewers on broadcast television channels.

12.5 Government Access Channel. The Grantee shall provide a channel for the use of the Grantor at no charge to the Grantor for an initial five (5) year period as provided by the FCC. The Grantee shall make every effort during this period to provide advice and technical expertise to aid in the utilization of this channel.

12.6 Educational Access Channel. The Grantee shall provide a channel for the use of the local educational institutions at no charge to those institutions for an initial five (5) year period, as provided by the FCC. The Grantee shall make every effort during this period to provide advice and technical expertise to aid in the utilization of this channel.

12.7 Public Access Channel. The Grantee shall make one (1) channel available to the public as required by the FCC. The rules governing the operation of said channel shall be submitted by Grantee to the Cable Television Program Advisory Council for review and approval. The Grantee shall make a studio and production equipment available for programmers and provide advice and technical expertise to aid in the utilization of this channel. (See Appendix E)

12.8 Leased Access Channels. The Grantee shall make all of the remaining unused channels available for lease, on a first-come, first-serve basis, at fair and published rates, as provided in the section entitled "Regulation of Rates".

SECTION 13. OPERATION AND MAINTENANCE

13.1 Open Books and Records. The Grantee shall manage all of its operations in the City in accordance with a policy of full public accountability. So as to provide the Grantor with the most meaningful data, the Grantee shall segregate the Fort Wayne system's books, records and financial statements from its other operations. The Grantor shall have the right to inspect at any time during normal business hours, all books, communications, records, maps, plans, income tax returns, financial statements, and any other materials of the Grantee which relate to its operation in the Fort Wayne area. However, any such material relating to personnel, experimental equipment, or other areas which the Grantee feels to be of a confidential nature, may be denied to the general public, but not to the Grantor. In such an instance, the Grantor may treat such information as confidential.

13.2 Communications with Regulatory Agencies. Copies of all petitions applications and reports submitted by the Grantee to the Federal Communications Commission, Securities

and Exchange Commission, or any other Federal or State regulatory commission or agency having jurisdiction in respect to any matters affecting cable communications operations authorized pursuant to the franchise, shall also be submitted simultaneously to the Grantor.

13.3 Annual Report. No later than ninety (90) days after each fiscal year, the Grantee shall present a written report to the Grantor which shall include the following, to-wit:

(a) A fully audited and certified financial report of the Port Wayne System for the previous fiscal year, including gross revenues from all sources, gross subscriber revenues from each category of service, net income and end-of-the-year balance sheet.

(b) A summary of the previous fiscal year's activities including but not limited to subscriber totals and new services.

(c) A summary of complaints received and handled; and

(d) Projected plans for the future.

13.4 Maintenance and Complaints.

(a) The Grantee's aforesaid office within the City shall be open during all usual business hours, have a publicly listed telephone, and be so operated as to receive subscriber complaints and requests for repairs or adjustments on a twenty-four (24) hour basis. A written log shall be maintained listing all complaints and their disposition; said log shall be retained by Grantee for a period of at least five (5) years.

(b) The Grantee shall render efficient service, make repairs promptly and interrupt service only for good cause and for the shortest time possible. Such interruptions,

insofar as possible, shall be preceded by notice and shall occur during periods of minimum use of the system. A written log shall be maintained of all service interruptions, and said log shall be retained by Grantee for a period of at least five (5) years.

(c) The Grantee shall employ a repair force capable of responding to subscriber complaints or requests for service within twenty-four (24) hours after receipt of the complaint or service request. No charge shall be made to the subscriber for this service insofar as such complaints and requests for service are reasonable and within the control of the Grantee in exercising its obligations under the franchise agreement.

(d) The Grantor shall ensure that all subscribers, programmers, and members of the general public have recourse to a satisfactory hearing for any complaints, where there is evidence that the Grantee has not handled the complaint in a reasonable and proper manner. The Grantee shall establish procedures for handling and settling complaints which shall be filed with the Grantor and the FCC.

(e) The Grantee shall furnish each subscriber at the time service is initiated, written instructions that clearly set forth procedures for placing a service call, registering a complaint and requesting an adjustment. Said instructions shall also include the name, address and telephone number of the Office of Cable Affairs and notice that the subscriber has the right to contact said office for information regarding terms and conditions of the franchise, if the Grantee fails to respond to the subscriber's request for installation, service or adjustment within a reasonable period of time.

13.5 Safety.

(a) The Grantee shall, at all times, employ the standards of care attendant to the risks involved in all its actions and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which may cause damage, injury, or nuisance to the public or to employees of the Grantee.

(b) The Grantee shall install and maintain its wires, cables, fixtures, and other equipment in accordance with the requirements of the National Electrical Safety Code and the standards set forth in Appendix A, in such a manner that they will not interfere with any installation of the Grantor or any public utility.

SECTION 14. REGULATION OF RATES.

14.1 Charges Permitted and Regulated. The Grantee may make such charges for BSTS and BSRS services provided to subscribers as are permitted by the franchise or by subsequent approval of the Grantor.

14.2 Schedule of Rates. The initial schedule of rates to be utilized by the Grantee shall be adhered to for a period of at least two (2) years after commencement of operation.

Initial rates are:

Installation:

BSTS (Per Month):

BSRS (Per Month):

All rates shall be uniform to all persons and organizations of like classes, under similar circumstances and conditions. The reduction of charges in conjunction with public promotional campaigns for the purpose of attracting residential subscribers, or the establishment of a graduated scale of charges and rate

schedules which vary with volume of usage, to which any commercial subscriber or programmer included within a particular classification shall be entitled, is permitted, with such varying fees being reported to the Grantor.

14.3 Changes in Rates. Increases in rates for service shall be authorized only after application by the Grantee, and upon approval by the Grantor after appropriate public hearing, which shall be announced by written notice published in two newspapers of general circulation twice within the 30 days before the date of the hearing. Decreases in rates for any service may be implemented at the discretion of the Grantee, after written notice to the Grantor.

14.4 Advance Charges and Deposits. The Grantee may require subscribers to pay for each month of service in advance at the beginning of each month. Deposit or advance payment for special equipment required for Additional Services shall not be charged without prior approval of the Grantor. Nothing in this provision shall be construed to prohibit charges for initial installation or the reconnection of equipment used for the receipt of basic subscriber services.

14.5 Installation and Reconnection. The Grantee may make a charge to subscribers for the installation of service outlets and for the reconnection of service outlets. The rates for such connection or reconnection shall be authorized by the Grantor as provided in the section entitled "Schedule of Rates." The Grantee may waive on a nondiscriminatory basis all or a portion of such charges for connection or reconnection, as provided in the Section entitled "Schedule of Rates."

14.6 Disconnection. There shall be no charge for disconnection of any installation or outlet. If any subscriber fails to pay a properly due monthly subscription fee,

or any other properly due fee or charge, the Grantee may disconnection the subscriber's service outlet. Such disconnections shall not be affected until at least sixty (60) days after the due date of said delinquent fee or charge, and until ten (10) days after written notice of the intent to disconnection has been mailed to the subscriber in question. After disconnection, upon payment of the delinquent fee or charge and the payment of a reconnection charge, the Grantee shall promptly reinstate the subscriber's cable service.

14.7 Refunds to Subscribers and Programmers.

(a) If the Grantee fails to provide any material service requested by a subscriber or programmer, the Grantee shall, after adequate notification and being afforded the opportunity to provide the service, promptly refund all deposits or advance charges paid for the service in question by said subscriber or programmer.

(b) If any subscriber terminates any monthly service during the first twelve (12) months of said service because of the failure of the Grantee to render reasonable and proper service, the Grantee shall refund to such subscriber an amount equal to the installation or reconnection charges paid by the subscriber multiplied by the fraction of the twelve (12) month period for which the subscriber will not be receiving service. In the event that said subscriber has made an annual payment in advance, a similar portion of said payment shall be refunded by the Grantee. Disputes arising from the enforcement of this provision shall be resolved as provided in the section of this ordinance entitled "Maintenance and Complaints."

(c) If any subscriber terminates monthly service prior to the end of a prepaid period, a pro-rata

portion of any prepaid subscriber service fee, using the number of days as a basis, shall be refunded to the subscriber by the Grantee.

SECTION 15. GENERAL FINANCIAL, INSURANCE AND INDEMNITY PROVISIONS.

15.1 Payment to the Grantor.

(a) As compensation for the franchise to be granted and in consideration of permission to use the streets and alleys of the City for the construction, operation, maintenance, and reconstruction of a Cable Communications System within the City, the Grantee shall pay to the Grantor an annual amount equal to five (5%) percent of the Grantee's gross annual subscriber revenues. In the event that the FCC in the future permits total gross annual revenues from all sources to become the basis for computing this fee such basis shall automatically be utilized herein. All funds received pursuant to this subsection shall be used to fund the planned regulatory program of the Grantor.

(b) Payments due the Grantor under this provision shall be computed quarterly, for the preceding quarter, as of March 31, June 30, September 30 and December 31. Each quarterly payment shall be due and payable no later than thirty (30) days after the dates listed in the previous sentence. Each payment shall be accompanied by a report showing the basis for computation, made by a Certified Public Accountant.

(c) No acceptance of any payment shall be construed as an accord that the amount paid is in fact the correct amount, nor shall such acceptance of payment be construed as a release of any claim the Grantor may have for further or additional sums payable under the provisions of this ordinance.

(d) Following the issuance by the FCC of a Certificate of Compliance the Grantee shall initiate quarterly franchise fee payments pursuant to the schedule set forth in 15.1 (b) above, at the minimum rate of \$6,250.00 per quarter. Such payments are to be considered as advances on payments due in later years of the franchise to the extent they exceed the actual franchise payments due during initial years of the system's operation, and they shall be credited against the later payments according to a formula which shall be mutually agreed upon by the Grantor and Grantee. In the event the Grantor and Grantee cannot agree upon such a formula, the advances shall be credited in a reasonable amount each year for a reasonable number of years as determined by arbitrators selected in accordance with the provisions of Section 19 of this ordinance.

15.2 Insurance Policies and Security Fund.

(a) Upon the granting of a franchise and within thirty (30) days following the filing of the acceptance required under Section 20.5 hereof and at all times during the term of the franchise including the time for removal of facilities or management as a trustee as provided herein, the Grantee shall obtain, pay all premiums for, and file with the Board of Public Works written evidence of payment or premiums and executed duplicate copies of the following:

(i) A general comprehensive public liability policy indemnifying, defending and saving harmless the City, its officers, boards, commissions, agents or employees from any and all claims by any person whatsoever on account of injury or death of a person or persons occasioned by the operations of the Grantee under the franchise herein granted or alleged to have been so caused or occurred with a minimum

liability of Five Hundred Thousand (\$500,000.00) Dollars per personal injury or death of any one (1) person and One Million (\$1,000,000.00) Dollars for personal injury or death of any two (2) or more persons in any one (1) occurrence.

(ii) Property damage insurance indemnifying, defending, and saving harmless the City, its officers, boards, commissions, agents and employees from and against all claims by any person whatsoever for property damage occasioned by the operation of Grantee under the franchise herein granted or alleged to have been so caused or occurred with a minimum liability of Two Hundred Fifty Thousand (\$250,000.00) Dollars for property damage to the property of any one (1) person and Five Hundred Thousand (\$500,000.00) Dollars for property damage to the property of two (2) or more persons in any one (1) occurrence.

(iii) Copyright infringement insurance, indemnifying, defending and saving harmless the City, its officers, boards, commissions, agents and employees from and against all claims of any person whatsoever for copyright infringement occasioned by the operation of the Grantee under the franchise herein granted or alleged to have been so caused or occurred with a minimum liability of One Million (\$1,000,000.00) Dollars for the infringement of said copyrights.

(b) Within ten (10) days after the effective date of this contract, the Grantee shall deposit with the Controller, and maintain on deposit through the term of this contract, the sum of _____ Dollars in monies or securities, as security for the faithful performance by it of all the provisions of this contract, and compliance with all orders, permits and directions of any agency of the City having jurisdiction over its acts or defaults

under this contract, and the payment by the Grantee of any claims, liens and taxes due the City which arise by reason of the construction, operation or maintenance of the system.

(i) Within ten (10) days after notice to it that any amount has been withdrawn from the security fund deposited pursuant to subsection (b) of this section, the Grantee shall pay to, or deposit with, the Controller a sum of money or securities sufficient to restore such security fund to the original amount of _____ Dollars.

(ii) If the Grantee fails to pay to the City any compensation within the time fixed herein; or fails, after ten (10) days notice, to pay the City any taxes due and unpaid; or fails to repay to the City within such ten (10) days, any damages, costs or expenses which the City shall be compelled to pay by reason of any act or default of the Grantee in connection with this franchise; or fails, after three (3) days notice of such failure by the Board of Public Works, to comply with any provision of this contract which the Board of Works reasonably determines can be remedied by an expenditure of the security, the Controller may immediately withdraw the amount thereof, with interest and any penalties, from the security fund. Upon such withdrawal, the Controller shall notify the Grantee of the amount and date thereof.

(iii) The security fund deposited pursuant to this section shall become the property of the City in the event that this contract is cancelled by reason of default of the Grantee. The Grantee, however, shall be entitled to the return of such security fund, or portion thereof, as remains on deposit with the Controller at the expiration

of the term of this contract, provided that there is then no outstanding default on the part of the Grantee.

(iv) The rights reserved to the City with respect to the security fund are in addition to all other rights of the City whether reserved by this contract or authorized by law, and no action, proceeding or exercise of a right with respect to such security fund shall affect any other right the City may have.

(c) All insurance policies called for herein shall be in a form satisfactory to the City Attorney and shall require thirty (30) days written notice of any cancellation or reduction in coverage to both the City and the Grantee, and a copy of said policies shall be filed with the Controller.

15.3 Indemnity. Grantee shall, at its sole cost and expense, fully indemnify, defend and hold harmless the City, its officers, boards, commissions and employees against any and all claims, suits, actions, liability and judgments for damage from any and all of the Grantee's operations and activities arising from the operation of its Cable Communications System (including but not limited to expenses for reasonable legal fees and disbursements and liabilities assumed by the City in connection therewith).

(a) To persons or property, in any way arising out of or through the acts or omissions of Grantee, its servants, agents or employees or to which Grantee's negligence shall in any way contribute.

(b) Arising out of any claim for invasions of the right of privacy, for defamation of any persons, firm or corporation, or the violation or infringement of any

copyright, trademark, trade name, service mark or patent, or of any other right of any person, firm or corporation, arising out of any failure by Grantee to secure consents from the owners, authorized distributors or licensees of programs to be delivered by the Grantee's Cable Television System whether or not any act or omission complained of is authorized, allowed, or prohibited by the franchise (excluding claims arising out of or relating to government programming).

(c) Arising out of Grantee's failure to comply with the provisions of any federal, state, or local statute, ordinance or regulation applicable to the Grantee in its business hereunder.

(d) The foregoing indemnity is conditioned upon the following:

The City shall give Grantee prompt notice of making of claim or the commencement of any action, suit or other proceeding covered by the provisions of this section. Nothing herein shall be deemed to prevent the City from cooperating with Grantee and participating in the defense of any litigation by its own counsel at its sole cost and expense. No recovery by the City of any sum by reason of the Security Fund required in Section 15.2 hereof shall be any limitation upon the liability of the Grantee to the City under the terms of this section, except that any sum so received by the City shall be deducted from any recovery which the City might have against the Grantee under the terms of this section.

SECTION 16. RIGHTS RESERVED TO THE GRANTOR. The City hereby expressly reserves the following rights:

16.1 Additional Regulations. To adopt, in addition to the provisions contained herein and in the franchise and

in any existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of its police power provided, however, that such regulations, by ordinance or otherwise, shall be reasonable and proper.

16.2 Right to Purchase the System. Upon revocation or expiration of the franchise agreement, the Grantor shall have the right to purchase the System. Upon revocation, the purchase price shall be the book value, as defined in the section entitled "Grantor Purchase of System Upon Revocation". Upon expiration, the purchase price shall be the fair value, as defined in the section entitled "Grantor Purchase of System Upon Expiration". The Grantor shall make it a condition of each contract entered into by it that the Grantor shall have the right to succeed to all privileges and obligations pertaining thereto.

16.3 Right of Inspection of Construction. The Grantor shall have the right to inspect all construction or installation work performed subject to the provisions of this ordinance and to make such inspection as it shall find necessary to ensure compliance with the terms of this ordinance and other pertinent provisions of law.

16.4 Right of Intervention. The Grantor shall have the right of intervention in any suit or proceeding to which the Grantee is party, and the Grantee shall not oppose such intervention by the Grantor.

16.5 Right to Require Removal of Property. At the expiration of the term for which the franchise is granted, or upon its revocation or expiration, as provided for herein, the Grantor shall have the right to require the Grantee to

remove, at its own expense, all portions of the Cable Communications System from all streets and alleys within the franchise area.

16.6 Special License. The City reserves the right to issue a license, easement or other permit to anyone other than the Grantee to permit that person to transverse any portion of the Grantee's franchise area within the City in order to provide service outside the City. Such license or easement, absent a grant or a franchise in accordance with this ordinance, shall not authorize nor permit said person to provide a cable television service of any nature to any home or place of business within the City nor to render any service or connect any subscriber within the City to the Grantee's Cable Communications System.

16.7 Compliance with Local Laws. This franchise does not exempt the Grantee from full compliance with all ordinances, codes, rules and regulations of the City of Fort Wayne, Indiana, which are not in direct contradiction with this franchise ordinance.

SECTION 17. RIGHTS RESERVED TO THE GRANTEE

17.1 Right of Appeal to Grantor. Should the Grantee become dissatisfied with any material decision or ruling of any City agency with real or delegated authority in matters pertaining to cable communications, the Grantee may appeal the matter to the Grantor in the manner set forth in Section 19. If the Grantee is dissatisfied with the results of such appeal, the Grantee may pursue any other remedies as are available, including the bringing of action in any court of competent jurisdiction should such right exist.

SECTION 18. RIGHTS OF INDIVIDUALS PROTECTED

18.1 Discriminatory Practices Prohibited. The Grantee

shall not deny service, deny access, or otherwise discriminate against subscribers, programmers or general citizens on the basis of race, color, age, religion, national origin, or sex. The Grantee shall strictly adhere to the equal employment opportunity requirements of the FCC, as expressed in Section 76.13(a)(8) and 76.311 of Title 42 of the Code of Federal Regulations. The Grantee shall comply at all times with other applicable federal, state and city laws, and all executive and administrative order relating to nondiscrimination. Nothing in this provision shall be construed to prohibit the reduction or waiving of charges in conjunction with promotional campaigns for the purpose of attracting subscribers, nor shall this provision be interpreted to prohibit the establishment of a graduated scale of charges and classified rate scheduled to which any subscriber or programmer included within a particular classification shall be entitled.

18.2 Cable Tapping Prohibited. Neither the Grantee, nor any other person, agency, or entity shall tap, or arrange for the tapping of any cable, line, signal input device, or subscriber outlet or receiver for any purpose whatsoever.

18.3 Cable Monitoring Prohibited. Neither the Grantee, nor other persons, agency, or entity shall monitor, or arrange for the monitoring, of any cable, line, signal input device, or subscriber outlet or receiver for any purpose whatsoever, without prior consent of the subscriber.

18.4 Privacy and Other Human Rights. The Grantee and the Grantor shall maintain constant vigilance with regard to possible abuses of the right of privacy or other human rights of any subscriber, programmer, or general citizen resulting from any device or signal associated with the Cable

Communications System. The possibility of such abuses shall be discussed at every scheduled renegotiation session. Devices such as electronic locks, scramblers, warning lights, and others shall be provided by the Grantee as problems are identified, the technology becomes available, and reasonable financial arrangements can be made.

18.5 Permission of Property Owner Required. No cable, line, wire, amplifier, converter, or other piece of equipment owned by the Grantee shall be installed by the Grantee without first securing the written permission of the owner of any property involved. If such permission is later revoked, whether by the original or subsequent owner, the Grantee shall remove forthwith any of its equipment which is both visible and movable and promptly restore the property to its original condition. This provision shall not be unreasonably invoked.

18.6 Sale of Subscriber Lists Prohibited. The Grantee shall not sell or otherwise make available, lists of the names and addresses of its subscribers, or any list which identifies, by name, subscriber viewing habits, to any person, agency or entity, for any purpose whatsoever, without the specific authorization of the Grantor.

18.7 Liability. Criminal or civil liability for programmers on the public access channel shall accrue solely to the programmer using the channel.

18.8 Censorship. Nothing in this ordinance shall be understood or construed to give the Grantor or any agency or office acting on its behalf, the powers of censorship over cable communications or signals transmitted over the Cable Communications System, and no regulation or condition

shall be promulgated or fixed by the Grantor or any agency or office acting on its behalf which shall interfere with the right of free speech by means of cable communications.

SECTION 19. RESOLUTION OF DISPUTES

19.1 Intent. It is the intent of the Grantor to provide for the orderly resolution of any controversy or dispute between the Grantee and the Grantor arising out of the enforcement or interpretation of any section or provision of this ordinance, the franchise agreement, or any rule, regulation or procedure relating to cable communication matters. Fact finding and mediation shall be the means of resolving the great majority of such controversies or disputes. Only those matters specifically designated as arbitrable may be submitted to that process for binding resolution. None of these methods, however, shall be the first resort of the parties but shall be undertaken only after reasonable time and full effort to reach agreement by negotiation.

19.2 Fact Finding. Any controversy or dispute, upon the election of either the Grantee or the Grantor, shall be submitted to an expert individual acceptable to both parties for an investigation of the facts and a report thereof. Such fact finding shall be for the purpose of developing better information for the use of both parties and shall not be binding on either party. All fees or other expenses resulting from such fact finding shall be equally borne by both the Grantee and the Grantor.

19.3 Mediation. Any controversy or dispute, upon the election of either the Grantee or the Grantor shall be submitted to an expert individual, acceptable to both parties, for the purpose of facilitating discussion and receiving new perspectives

on the issues and new proposals for compromise. Such mediation shall not be binding on either party. All fees or other expenses resulting from mediation shall be equally borne by both the Grantor and the Grantee.

19.4 Arbitration. Only those matters which are expressly arbitrable under the provision of this ordinance may be submitted for arbitration. Such matters are disputes over:

- (a) The book value of the system;
- (b) The fair value of the system; and
- (c) Interconnection.

Arbitrable matters may be submitted to a single expert individual, if both parties agree to do so. Otherwise, arbitrable matters shall be submitted to a three (3) member expert panel. Arbitration shall be binding on both parties. Arbitrated matters shall be subject to the rules and procedures of the American Arbitration Association. All fees or other expenses resulting from such arbitration shall be paid by the Grantee and the Grantor as hereinafter provided.

19.5 Selection Procedures.

(a) In the case of fact finding or mediation, both parties shall present a maximum total of three (3) names each for possible service as experts. If there is no agreement on any of the names the Judge of the Allen Circuit Court shall select a person to fulfill the function of expert.

(b) In the case of arbitration, both parties shall agree upon the number of persons to serve on the arbitration panel. Such number shall either be one (1) or three (3). If a single member panel is agreed upon, both parties shall jointly name the person, utilizing the procedures established for fact finding and mediation. If a three (3) member panel

is agreed upon, the membership shall be one (1) person named by the Grantor and one (1) person named by the Grantee, and a third person named by both the Grantee and Grantor, acting jointly. Said third person shall serve as the presiding officer of the panel. If there is no agreement on the single arbitrator or the presiding officer of a three (3) member panel, the procedures established for fact finding and mediation shall be followed.

19.6 Fees and Expenses. The fees of single experts and arbitrators shall be equally borne by the Grantee and the Grantor. The fee of an arbitrator who represents one (1) of the parties shall be borne by that party. The fee of the presiding officer of an arbitration panel shall be equally borne by the Grantor and the Grantee. The expenses of fact finding and mediation shall be equally borne by the Grantor and the Grantee. The expenses of arbitration shall be borne as determined by the arbitration panel in its award or finding, but in no event shall the Grantor be obligated for more than one-half (1/2) of the expenses.

SECTION 20. MISCELLANEOUS PROVISIONS

20.1 Compliance with Laws. The Grantee shall comply with all federal and State of Indiana laws, as well as all City ordinances, resolutions, rules and regulations heretofore or hereafter adopted or established during the entire term of the franchise.

20.2 Severability. If any section, sentence, clause or phrase of the ordinance is held unconstitutional or otherwise invalid by the Federal Communications Commission, other federal or state regulatory body or any court of competent jurisdiction, such infirmity shall not affect the

validity of the ordinance, and any portions in conflict are hereby repealed. Provided, however, that in the event that the Federal Communications Commission declares any section invalid, then such section or sections will be renegotiated by the Grantor and the Grantee.

20.3 Captions. The captions to sections throughout this ordinance are intended solely to facilitate reading and reference to the sections and provisions of this ordinance. Such captions shall not affect the meaning or interpretation of this ordinance.

20.4 Nonenforcement by the Grantor. The Grantee shall not be relieved if its obligation to comply with any of the provisions of the ordinance by reason of any failure of the Grantor to enforce prompt compliance.

20.5 Acceptance. This franchise shall be accepted by the Grantee by written instrument filed with the Board of Public Works within thirty (30) days after the granting of the franchise. In its acceptance the Grantee shall declare that it:

(a) Has carefully read the terms and conditions of this ordinance and the franchise and accepts all of the terms and conditions imposed by this ordinance and agrees to abide by same;

(b) Acknowledges that it has not been induced to accept same by any promise, verbal or written, by or on behalf of the City or by any other third person regarding any term or condition of this ordinance or the franchise not expressed therein; and

(c) Accepts the franchise after its own investigation and understanding of the power and authority of the City to grant said franchise.

20.6 Day-to-Day Enforcement. The day-to-day enforcement of the provision of this franchise shall be the responsibility of the Cable Communications Regulatory Board.

20.7 Conflicts Between Documents. In the event of a conflict in word or interpretation between this ordinance and any subsequent franchise agreement or any rule, regulation, or procedure, the words of this ordinance shall control.

20.8 Amendments to this Ordinance. Amendments to this ordinance may be adopted by the Grantor only after following the procedures as detailed in Section 7.

20.9 Subsequent Action by State or Federal Agencies. Should the State of Indiana, the FCC, or any other agency of the federal or state governments subsequently require the Grantee to deliver any signals in addition to those required by this ordinance, or to perform or cease to perform any act which is inconsistent with any provisions of this ordinance, the Grantee shall so notify the Grantor. Upon receipt of such notification, the Grantor shall determine if a material provision of the franchise is affected. Upon such determination, the Grantor shall have the right to modify or amend any of the sections of this ordinance or the franchise agreement to such reasonable extent as may be necessary to carry out the full intent and purpose of the ordinance. In doing so, the requirements of the section entitled "Special Negotiations Session" shall be followed.

20.10 Time Essence of Agreement. Whenever this franchise sets forth any time for any act to be performed by or on the behalf of the Grantee, such time shall be deemed of the essence and the Grantee's failure to perform within the time allotted shall, except for circumstances

for which prior approval is obtained from the Cable Communications Regulatory Board, be sufficient grounds for the City to invoke the remedies available under the terms and conditions of this ordinance and the franchise agreement.

20.11 Publication Costs. The Grantee shall assume the cost of publication of the franchise ordinance as such publication is required by law. A bill for the publication costs shall be presented to the Grantee by the City upon the Grantee's filing of acceptance and shall be paid at that time.

SECTION 21. FRANCHISE APPLICATION

21.1 Application Fee. The franchise or renewal thereof shall be issued on a written application and upon a form approved by the Common Council. Such applications shall be accompanied by a nonrefundable cash fee of Fifteen Hundred (\$1,500.00) Dollars which shall be paid to the Controller and which shall be used to cover the costs of the Grantor in reviewing, investigating and processing the application.

21.2 Application Information. The form shall set forth such facts in detail as the Cable Communications Regulatory Board may deem appropriate including:

(a) A detailed schedule of the rates to be charged for the services offered, the facilities to be employed and the general routes of the cables used in redistributing signals, the service area or areas, the commencement and completion dates of construction of the Cable Communications System and the proposed dates the services will be available to the area or areas named.

(b) A detailed schedule of rates to be charges for the services offered to residential, apartment, commercial and other users of service.

(c) If the applicant is an individual, partnership, or unincorporated association, its statement shall contain the names and addresses of all persons having a proprietary or equitable interest in and to the prospective franchise if awarded to the proposer. The term "equitable interest" shall include all assignment for value, as well as all contingent assignments of any right or privilege under the prospective franchise, and shall also include any benefit, payment or emolument whatsoever resulting from the grant of a franchise under this ordinance.

(d) If the applicant is a non-public corporation, the statement shall furnish, additionally, the names and addresses of the officers, directors, and shareholders of the said corporation, together with the number of shares held by each shareholder.

(e) If the applicant is a publicly held corporation, as defined by the rules and regulations of the Securities and Exchange Commission, the statement shall contain the states in which incorporated and/or qualified to do business, the names and addresses of the officers and directors of the corporation, the names and addresses and number of shares owned of all stockholders both nominal and beneficial, owning three (3%) percent or more of the outstanding stock of the applicant and the names and addresses of each shareholder who is a resident of Allen County, Indiana, together with the number of shares owned by each.

(f) A full disclosure of the ownership of the facilities to be used in rendering the service.

(g) The source of the funds for operation of the system respecting the installation and maintenance of all

Cable Communications System facilities; and shall demonstrate the financial ability to provide and extend service to proposed subscribers at a reasonable cost.

(h) A pro forma financial statement for each of the first five (5) years of operation of the Fort Wayne System, including:

- (i) The capital required for construction;
- (ii) The anticipated annual revenues from operations, operating expenses, and working capital needed in excess of the capital required for construction; and
- (iii) Sources of funds to be provided for (i) and (ii).

(i) Written evidence of enforceable commitments from corporations, banks or persons who will provide the required funds, including parent and subsidiary companies, with the terms and conditions thereof, and their obligations that may have influence upon this system.

(j) As to any person who will be a source of funds and has not yet furnished the funds committed, submission of an audited and certified balance sheet of recent date, and a profit and loss statement from each of the three (3) most recent years showing the identity, nature and basis of evaluation of any assets that will be used or converted to provide the committed funds.

(k) It is presumed in all cases that the financial data supplied will clearly indicate that the system commitments made in the application can be implemented. Applications not meeting this standard will not receive consideration.

(1) A list of all cable television systems which have been designed, constructed, affiliated with, or are being operated by the applicant, indicating:

(i) The date on which the franchise was initially awarded in each case.

(ii) The number of channels presently being provided by each system.

(iii) The number of channels providing non-broadcast service and the general extent of such nonbroadcasting programming.

(iv) The installation and present monthly individual subscriber fee.

(v) The nature and amount of other regular or special fees, including pay TV fees, now being paid by subscribers in each system.

(vi) The franchise fee being paid and the name or names of the governmental officials in each community who might provide further information about each system.

(vii) The number of subscribers of each system.

(viii) The time interval between the date of the franchise award and commencement of construction.

(ix) The interval between commencement on construction and provision of service.

(x) The dates of certification from the FCC.

(xi) A listing of communities where applicant was awarded a franchise and subsequently disposed of all or a majority of its interest.

For any system presently operating in any of the largest one hundred (100) television markets in the United States,

a description of all nonbroadcast services being offered by each system.

(m) The proposed cable system shall be described in detail including, but not limited to, the following:

(i) Area to be served, if different from the provision of this proposal.

(ii) System design and technical features, including:

- Headend Design
- Distribution Plant
- Subscriber Equipment
- Cablecasting Facilities
- Channel and Services Capacity
- Two-way Communications Capacity.

(iii) Services to be provided.

(iv) Construction and service schedules, including estimated capital expenditures phased in conjunction with the service schedule.

(n) Over and above the initial services to be provided, any commitment that the applicant desires to make with respect to new or additional services, or growth and expansion of the system.

(o) A statement of intent with respect to providing local origination programming and other services based specifically on community needs and interests.

(p) Any additional information that will assist the Grantor in evaluating the special or unique qualifications of the applicant, or the advantages of the proposed system.

21.3 Clarifying Information. The Grantor may, following submission of the application, request such other clarifying

information as it may deem appropriate.

21.4 Bid Bond. Each application shall be accompanied by a bid bond in the amount of Fifty Thousand (\$50,000.00) Dollars to secure the applicant's good faith. The bid bond shall be furnished on the condition that if the applicant is awarded the franchise and shall fail to accept the award the bid bond shall be forfeited as liquidated damages, losses, cost, and expenses incurred by the franchisor by reason of such failure. Bid bonds will be returned to all applicants within thirty (30) days after award of a franchise.

21.5 Evaluation of Applications.

(a) Applications shall be in substantial compliance with the requirements set out in this document. Applications may vary from the requirements herein set forth only to the following extent and in the following manner:

(i) Applications may provide for greater service, operational or technical capabilities than are provided herein.

(ii) The technical methods as outlined in Appendices A and B need not be complied with in exact detail as long as the operational intent and performance requirements of the Schedules can be demonstrated to be met by alternative techniques.

(iii) The applications may provide for a different completion time schedule other than the five (5) years required herein.

(iv) Applications may vary, for reason given therein the schedule for implementing the services contained in Appendix D.

(b) Applications meeting the requirements of

subsection (a) above shall be rated and weighted in accordance with the following procedure:

(i) Section 21.1 lists the required content of franchise applications. Table 1 provides a weighting of each item of the application, in terms of the degree of importance. The weighting is quantified as a percentage, with one hundred (100%) percent representing a complete application.

(ii) The individual applications will be rated on a three (3) level scale, to indicate the quality or "level of excellence" of the material contained in the application for each item assigned a weighting factor in Table 1 (items 21 (b), (c), (d), (e), (f) and (g)). The levels are as follows:

3. -- "Excellent" or "Exceptional"
(defined as substantially above minimum adequacy.)
2. -- "Acceptable" or "Adequate"
(defined as meeting ordinance requirements, or if not specifically required in the ordinance, meeting what are considered good standards).
1. -- "Unsatisfactory" (not in compliance with system objectives, or considered below acceptable standards, or ambiguous, or not discussed).

(iii) A tabulation is compiled in the form of Table 2, in which all applications are rated on the 3-2-1 scale for each item. The rating is then multiplied by the assigned weight for the item (R x W column). This serves to put the ratings in proportion, so that, for example, an "unsatisfactory" rating in a major area will outweigh an "exceptional" rating in a less important area.

(iv) The tabulation produced as a result of

this procedure will produce a quantitative total of "points" for each application, as shown in Table 2. The highest point total indicates the application considered to be the best.

(v) If the final point totals of more than one applicant are very close, other factors may be included, but the highest rated application in any event shall merit first consideration.

(c) Based upon the above evaluation procedure the application that is selected for approval shall be transmitted to the City Council for the procedures required to grant a franchise. The City reserves the right to reject any and all applications received.

SECTION 22.

This Ordinance shall be in full force and effect from and after its passage by the Common Council, approved by the Mayor and legal publication thereof.

Virgil L. Schmidt
Councilman

Approved as to form and legality

John H. Logan
Attorney for Common Council

TABLE 1

WEIGHTING PERCENTAGES FOR EVALUATION OF APPLICATIONS

<u>SECTIONS</u>	<u>ITEM</u>	<u>WEIGHTING PERCENT</u>
21.1	Application Fee *	00%
21.2 (c), (d), (e) & (f)	Identity of Applicant	00%
21.2 (l)	Cable Experience of Applicant	15%
21.2 (m)	Description of the Proposed Cable System	15%
21.2 (a) & (b)	Schedule of Proposed Rates and Charges	15%
21.2 (n)	Commitment on New Services	15%
21.2 (g), (h), (i), (j) & (k)	Financial Data	15%
21.2 (o)	Response to Community Need and Interest	15%
21.2 (p)	Additional Information	10%
21.4	Bid Bond *	00%
TOTAL		100%

Note:

* Mandatory Requirements.

TABLE 2

EXAMPLE OF EVALUATION TABULATION

Item	Weighting (W) Percent	Applicant A		Applicant B		Applicant C	
		Rating	R X W	Rating	R X W	Rating	R X W
Cable Experience of Applicant	15%	3	45	2	30	1	15
Description of the Proposed Cable System	15%	1	15	2	30	3	45
Schedule of Proposed Rates and Charges	15%	1	15	3	45	2	30
Commitment on New Services	15%	2	30	2	30	3	45
Financial Data	15%	1	15	1	15	2	30
Response to Community Need and Interest	15%	3	45	3	45	1	15
Additional Information	10%	2	20	1	10	3	30
TOTALS	100%		185		205		210

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35

Read the first time in full and on motion by 1. Schmidt seconded by Hays, and duly adopted; read the second time by title and referred to the Committee on Finance (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on Wed, the 26th day of May, 1976, at 7:30 o'clock P.M., E.S.T.

Date: 5/11/76

[Signature]
CITY CLERK

Read the third time in full and on motion by _____, seconded by _____, and duly adopted, placed on its passage.
Passed (LOST) by the following vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT
<u>TOTAL VOTES</u>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>BURNS</u>	_____	_____	_____	_____	_____
<u>HINGA</u>	_____	_____	_____	_____	_____
<u>HUNTER</u>	_____	_____	_____	_____	_____
<u>MOSES</u>	_____	_____	_____	_____	_____
<u>NUCKOLS</u>	_____	_____	_____	_____	_____
<u>SCHMIDT, D.</u>	_____	_____	_____	_____	_____
<u>SCHMIDT, V.</u>	_____	_____	_____	_____	_____
<u>STIER</u>	_____	_____	_____	_____	_____
<u>TALARICO</u>	_____	_____	_____	_____	_____

DATE: _____

CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (Zoning Map) (General) (Annexation) (Special) (Appropriation) Ordinance (Resolution) No. _____ on the _____ day of _____, 197____.

ATTEST: (SEAL)

CITY CLERK

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the _____ day of _____, 197____, at the hour of _____ o'clock _____ M., E.S.T.

CITY CLERK

Approved and signed by me this _____ day of _____, 197____, at the hour of _____ o'clock _____ M., E.S.T.

MAYOR

Bill No. G-76-05-08

REPORT OF THE COMMITTEE ON FINANCE

We, your Committee on Finance to whom was referred an Ordinance
providing for the grant of a franchise to operate a Cable Communications
System in the City of Fort Wayne, Indiana, and providing for regulation
of said system

have had said Ordinance under consideration and beg leave to report back to the Common
Council that said Ordinance PASS.

WILLIAM T. HINGA - CHAIRMAN

JAMES S. STIER - VICE CHAIRMAN

VIVIAN G. SCHMIDT

PAUL H. BURNS

FREDRICK HUNTER

7-13-77 CONCURRED IN
DATE CHARLES

Bill No. G-76-05-08

REPORT OF THE COMMITTEE ON FINANCE

We, your Committee on Finance to whom was referred an Ordinance
providing for the grant of a franchise to operate a Cable Communications
System in the City of Fort Wayne, Indiana, and providing for regulation
of said system

have had said Ordinance under consideration and beg leave to report back to the Common
Council that said Ordinance ~~Withdrawn~~ Withdrawn Pass

WILLIAM T. HINGA - CHAIRMAN

JAMES S. STIER - VICE CHAIRMAN

VIVIAN G. SCHMIDT

PAUL M. BURNS

FREDRICK HUNTER



Consumer Center

747 E. Wayne Street • Fort Wayne, Indiana 46802 • Phone 219/422-7630

TESTIMONY BEFORE THE COMMON COUNCIL
CITY OF FORT WAYNE
ON THE ORDINANCE REGULATING
CABLE TELEVISION

MAY 26, 1976

Members of the Council:

The only justification for government granting monopoly control to a private company for an essential public service is that the public interest is served in the process. After turning such process over, the government and the citizens must constantly monitor the company and hold it accountable. To turn over the powers and not prepare to restrain the cable company is to ride a wild horse without reins.

The proper citizen preparation has taken place in forming this ordinance. This participation must be respected if citizens are to play a role in the development of cable television's potential for Ft. Wayne. Avenues for on-going citizen involvement in programming and regulation are provided for. To deny this consensus of public opinion is to allow the creation of just another utility company that cannot be held accountable.

But we are concerned not only with public regulation of the utility. The Consumer Center is the only organization currently addressing itself to our local consumer scene, formed solely to promote the consumer interest, by and for the citizens of Ft. Wayne. We are excited at the prospect of the potential to disburse



Consumer Center

747 E. Wayne Street • Fort Wayne, Indiana 46802 • Phone 219/422-7630

CABLE TELEVISION TESTIMONY
PAGE TWO
MAY 26, 1976

consumer-related information on a frequent, consistent basis. Until now we have been limited by the discretion of editors and station managers in their allocation of finite time and space. We must become theatrical newsmakers in order to obtain the coverage necessary to publicize our information.

Ignoring the voice of citizens is always costly but in the case of cable television there is an overriding imperative. Cable television is itself a tool for participation in local government and community affairs. Without a strong, comprehensive ordinance, we are turning a medium for citizen power over to those who have most to lose from an enlightened and aroused public.

ALLAN CLASSEN
CONSUMER CENTER DIRECTOR

May 24, 1976

Dear Shareholder:

Last week when we promised a digest of the proposed Fort Wayne Cable Ordinance, we did not reckon with the complexities of the document being recommended.

However, we will pass on some of the observations of staff and counsel.

First, it is an incomplete document because four appendices affecting the franchise and pertinent to it are not yet completed for review.

Second, in the opinion of legal counsel, it is a license rather than a franchise which license could be revoked for arbitrary reasons at any time.

Therefore, in the opinion of financial counsel, it is highly unlikely that financing could be obtained for the proposed Fort Wayne system.

Third, it is the opinion of citizens who have been concerned about the development of a worthwhile broadband communications network within the Fort Wayne metropolitan area that the ordinance would substitute bureaucratic action for private citizen involvement, effectively limiting the development of true neighborhood, ethnic or private organization communications and the programming attendant to such needs.

Finally, from a business point of view, the franchise sets up rules by which the company must do business rather than setting up a framework within which it can effectively operate, grow and prosper. Under the proposed document, the company operating the system would forever be required to charge back unwarranted expense to the subscribers, never would it be in a position of offering wanted service for a reasonable price.

In our opinion, it would establish from the start, an adversary relationship under highly regulated conditions all favoring the City administrators not necessarily the public.

Continued...

May 24, 1976


Today, the mood in Washington is toward deregulation of cable television since years of regulation have proved suffocating and not in the public interest regarding the development of cable in its behalf.

Some call it a luxury; One must remember, cable is not a utility; no one needs it for life support; customers are only attracted as long as the system meets their expectations; they are free and quick to leave when the operator does not deliver a quality service at an attractively low price.

The City Council and the Administration should foster legislation that enhances public desire and expectation for the best possible broadband communication system, not that which would usurp public or corporate advocacy, initiative or development with laws, regulations or constraints which already exist at the Federal level or are realities of the market.

I will appreciate your attendance at the open hearing, Wednesday, May 26, at 7:30 p.m. in the City-County Building, for only then will the authorities know that there are 36 local shareholders seeking to serve their fellow citizens with a proper cable television system. I am enclosing a pocket card which will so identify you. Please wear it.

Cordially,


John F. Bonsib
President

Representing 36 local shareholders

JFB/sew
Enclosure



Consumer Center

747 E. Wayne Street • Fort Wayne, Indiana 46802 • Phone 219/422-7630

TESTIMONY BEFORE THE COMMON COUNCIL
CITY OF FORT WAYNE
ON THE ORDINANCE REGULATING
CABLE TELEVISION
MAY 26, 1976

Members of the Council:

The only justification for government granting monopoly control to a private company ^{for} ~~over~~ an essential public service is that the public interest is served in the process. After turning such powers over, the government and the citizens must constantly monitor the company and hold it accountable. To turn over the powers and not prepare to restrain the cable company is to ride a wild horse without reins.

The proper citizen preparation has taken place in forming this ordinance. This participation must be respected if citizens are to play a role in the development of cable television's potential for Ft. Wayne. Avenues for on-going citizen involvement in programming and regulation are provided for. To deny this consensus of public opinion is to allow the creation of just another utility company that cannot be held accountable.

But we are concerned not only with public regulation of the utility. The Consumer Center is the only organization currently addressing itself to our local consumer scene, formed solely to promote consumer interests by and for citizens of Ft. Wayne. We are excited at the prospect of the potential to disburse

CABLE TESTIMONY
PAGE TWO

consumer-related information on a frequent, consistent basis. Until now we have been limited by the discretion of editors and station managers in their allocation of finite time or space. afford to Because we cannot/buy media coverage we must ~~become~~ ^{become} news-makers and information ~~and~~ in order to obtain wide coverage of the ideas we ~~that~~ ^{offer} seek to distribute. [A ~~better informed~~ ^{citizenry} in consumer as well as other matters cannot help but insure better decisions by individuals, and the government and private interests which serve us.]

Ignoring the voice of citizens is always costly but in the case of cable television there is an overriding imperative. Cable is itself a tool for participation in local government and community affairs. Without ~~a~~ ^a strong, comprehensive ordinance, ~~we are turning a medium for citizen power over to those who have most to lose from an enlightened and aroused public.~~

FOR NEARLY TWO YEARS, TASK FORCES APPOINTED BY THE CATV EXECUTIVE COMMITTEE AND REPRESENTING A BROAD SPECTRUM OF CITIZENS CONCERNED WITH EDUCATIONAL, MEDICAL, GOVERNMENTAL, AND COMMUNITY USES OF CABLE TELEVISION HAVE GIVEN INTENSIVE STUDY AND CONSIDERATION TO THE FRANCHISING AND APPLICATION OF CABLE TV IN THE CITY OF FORT WAYNE.

AROUND
ON JULY 31, 1974, AFTER CONSIDERABLE DELIBERATION, THE TASK FORCES PRODUCED THEIR RECOMMENDATIONS WHICH WERE SUBMITTED TO THE EXECUTIVE COMMITTEE. SOME OF THESE RECOMMENDATIONS HAVE BEEN INCLUDED IN THIS PROPOSED ORDINANCE, OTHER RECOMMENDATIONS WERE REWRITTEN, AND SOME WERE DROPPED.

HOWEVER, ONE VERY BASIC AND OVERRIDING PHILOSOPHICAL CONSIDERATION EMERGED FROM THE TASK FORCE REPORTS. THE TASK FORCE PERSONNEL REALIZED VERY EARLY THAT CABLE TELEVISION IS THE LAST VISIBLE MASS COMMUNICATIONS MEDIA TO WHICH THE GENERAL CITIZENRY CAN HOPE TO GAIN ACCESS. FOR THAT REASON, THE TASK FORCE REPORTS EXPRESSED A DEEP CONCERN THAT CITIZENS HAVE A VIABLE INVOLVEMENT IN THE CABLE PROCESS AT ALL LEVELS, INCLUDING PLANNING AND PROGRAM DEVELOPMENT. THE TASK FORCES ALSO EXPRESSED A CONCERN THAT ALL CITIZENS, EQUALLY, BE ASSURED FREE AND EASY ACCESS TO THE PUBLIC ORIGINATION CHANNELS.

TO THESE ENDS, THE TASK FORCE REPRESENTATIVES SUPPORT AND ENCOURAGE THE CONCEPT OF THE CABLE COMMUNICATIONS REGULATORY BOARD COMPOSED IN PART OF PERSONS CHOSEN FROM A HUMAN RESOURCES POOL WHICH INCLUDES EVERY CITIZEN OF FORT WAYNE, BUT WE FEEL COMPELLED TO URGE THAT THE PROGRAM ADVISORY COUNCIL BE STRENGTHENED AND GIVEN RESPONSIBILITY FOR FACILITATING PUBLIC ACCESS TO THE CABLE SYSTEM AND TO THE MEANS OF PROGRAM PRODUCTION.

COMMON COUNCIL
PUBLIC HEARING
CITY-COUNTY BUILDING
COUNCIL CHAMBERS - ROOM 126
7:30 P.M.

CABLE TELEVISION
BILL NO. G-76-05-08

ROLL CALL

BURNS _____, HINGA ✓, HUNTER _____, MOSES ^a, NUCKOLS ^{late} ✓,
DONALD SCHMIDT ^(late) ✓, VIVIAN SCHMIDT ✓, STIER _____, TALARICO ✓,

ABSENT: Moses
Nuckols (late)

CHAIRMAN OF THE FINANCE COMMITTEE ----- VIVIAN G. SCHMIDT

MEMBERS OF FINANCE COMMITTEE ----- HINGA, MOSES, NUCKOLS, TALARICO

A. - Blank spaces 3.11

B. - Act as a contract

C. Section 7 7F

D. Council releases its authority to a 'board'.

E. Not in finished form, to carry out the laws of Indiana

F. No affirmative action in ordinance

G. Grantee (does not name) the firm.

H. Page 17, 24, (9, Regulatory Board)

Salim
City Attorney

Ann. Appr. _____

DIGEST SHEET

B-76-05-08

TITLE OF ORDINANCE An Ordinance Providing for the Grant of a Franchise to operate a Cable Communications system in the City of Fort Wayne, Indiana, and providing for regulation of said system.

DEPARTMENT REQUESTING ORDINANCE Common Council

SYNOPSIS OF ORDINANCE To provide for granting of franchise to

operate Cable Television in the City of Fort Wayne, Indiana and

regulating the transmission thereof.

Wickham

EFFECT OF PASSAGE Cable T.V.

EFFECT OF NON-PASSAGE No Cable T.V.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) _____

ASSIGNED TO COMMITTEE (PRESIDENT) *Forster / Dwyer*



CITY OF FORT WAYNE

FORT WAYNE, INDIANA

CHARLES W. WESTERMAN
CITY CLERK

May 13, 1976

Miss Helen Libbing
Fort Wayne Newspapers, Inc.
600 West Main Street
Fort Wayne, Indiana 46802

Dear Miss Libbing:

Please give the attached full coverage on the dates of May 15, and May 22, 1976, in both the News Sentinel and Journal Gazette.

RE: Notice of Public Hearing
General Ordinance No. G-76-05-08

Grant for franchise to operate
a Cable Communication System in the
City of Fort Wayne, Indiana

Please send us (6) copies of the Publisher's Affidavit from both newspapers.

Thank you.

Sincerely,

A handwritten signature in cursive script, reading "Charles W. Westerman".

Charles W. Westerman
City Clerk

CWW/ne
Encl: 1

NOTICE OF PUBLIC HEARING


Notice is hereby given that the Common Council of the City of Fort Wayne, at the Council Chambers, Room 126, in the City-County Building, Fort Wayne, Indiana, on Wednesday, the 26th day of May, 1976, at 7:30 o'clock P.M., Eastern Standard Time, will hold a public hearing on Bill No. G-76-05-08 being a proposed General Ordinance providing for the grant of a franchise to operate a Cable Television Communications System in the City of Fort Wayne, Indiana, and providing for regulation of said system.

Copies of said Bill No. G-76-05-08 are posted in the following public places in Fort Wayne, Allen County, Indiana.

- (a) The main floor lobby of the City-County Building
- (b) The bulletin board in the lobby at the east door of the Allen County Court House
- (c) The bulletin board in the lobby of the Downtown Fort Wayne Public Library

Copies of said proposed ordinance are also available for reading in the following public places in Fort Wayne, Indiana.

- (a) The Reference Room in the north end of the main floor in said Downtown Fort Wayne Public Library
- (b) The Journal of the Common Council Proceedings in the Office of the City Clerk of Fort Wayne, Indiana, Room 122, City-County Building, Fort Wayne, Indiana


Charles W. Westerman
City Clerk of Fort Wayne, Indiana

Common Council of Fort Wayne
(Governmental Unit)

To THE NEWS-SENTINEL Dr.

Allen County, Ind.

FORT WAYNE, INDIANA

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set) — number of equivalent lines

Head number of lines

Body number of lines

Tail number of lines

Total number of lines in notice

COMPUTATION OF CHARGES

41 lines, 1 columns wide equals 41 equivalent lines at .288¢ cents per line \$ 11.81

Additional charge for notices containing rule or tabular work (50 per cent of above amount)

Charge for extra proofs of publication (50 cents for each proof in excess of two)

TOTAL AMOUNT OF CLAIM

DATA FOR COMPUTING COST

Width of single column 11 ems

Size of type 5½ point

Number of insertions 2

Size of quad upon which type is cast 5½

Pursuant to the provision and penalties of Ch. 89, Acts 1967,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Date May 22, 1976

Title CLERK

PUBLISHER'S AFFIDAVIT

State of Indiana }
Allen County } ss:

Personally appeared before me, a notary public in and for said county and state, the undersigned V. E. GERKEN who, being duly sworn, says that she is CLERK of the

NEWS-SENTINEL

a DAILY newspaper of general circulation printed and published in the English language in the city of FORT WAYNE, INDIANA in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 2 time s, the dates of publication being as follows:

5/15-22/76

Subscribed and sworn to before me this 22nd day of May, 1976

Notary Public

My commission expires September 28, 1979

NOTICE OF PUBLIC HEARING

Notice is hereby given that the Common Council of the City of Fort Wayne, at the Council Chambers, Room 126, in the City-County Building, Fort Wayne, Indiana, on Wednesday, the 26th day of May, 1976, at 2:30 o'clock P.M., Eastern Standard Time, will hold a public hearing on Bill No. G-76-05-08 being a proposed General Ordinance providing for the grant of a franchise to operate a Cable Television Communications System in the City of Fort Wayne, Indiana, and providing for regulation of said system.

Copies of said Bill No. G-76-05-08 are posted in the following public places in Fort Wayne, Allen County, Indiana:

(a) The main floor lobby of the City-County Building

(b) The bulletin board in the lobby at the east door of the Allen County Court House

(c) The bulletin board in the lobby of the Downtown Fort Wayne Public Library

Copies of said proposed ordinance are also available for reading in the following public places in Fort Wayne, Indiana:

(a) Reference Room in the north end of the main floor in said Downtown Fort Wayne Public Library

(b) The Journal of the Common Council Proceedings in the Office of the City Clerk of Fort Wayne, Indiana, Room 122, City-County Building, Fort Wayne, Indiana.

CHARLES W. WESTERMAN
City Clerk of
Fort Wayne, Indiana

Common Council of Fort Wayne
(Governmental Unit)

To JOURNAL-GAZETTE Dr.

Allen County, Ind.

FORT WAYNE, INDIANA

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set) — number of equivalent lines

Head number of lines

Body number of lines

Tail number of lines

Total number of lines in notice

COMPUTATION OF CHARGES

41 lines, 1 columns wide equals 41 equivalent lines at .284 cents per line

\$ 11.81

Additional charge for notices containing rule or tabular work (50 per cent of above amount)

\$ 5.91

Charge for extra proofs of publication (50 cents for each proof in excess of two)

\$ 2.00

TOTAL AMOUNT OF CLAIM

\$ 19.72

DATA FOR COMPUTING COST

Width of single column 11 ems

Size of type 5 1/2 point

Number of insertions 2

Size of quad upon which type is cast 5 1/2

Pursuant to the provision and penalties of Ch. 89, Acts 1967,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Arvilla Dewald

Date May 22, 1976

Title CLERK

PUBLISHER'S AFFIDAVIT

State of Indiana }
Allen County } as:

Personally appeared before me, a notary public in and for said county and state, the undersigned ARVILLA DEWALD who, being duly sworn, says that she is CLERK of the

JOURNAL-GAZETTE
a DAILY newspaper of general circulation printed and published

in the English language in the city of FORT WAYNE, INDIANA

in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 2 time(s), the dates of publication being as follows:

5/15-22/76

Subscribed and sworn to before me this 22nd day of May, 1976

Notary Public

My commission expires September 28, 1979

NOTICE OF PUBLIC HEARING
Notice is hereby given that the Common Council of the City of Fort Wayne, at the Council Chambers, Room 126, in the City-County Building, Fort Wayne, Indiana, on Wednesday, the 26th day of May, 1976, at 7:30 o'clock P.M., Eastern Standard Time, will hold a public hearing on Bill No. G-76-05-08 being a proposed General Ordinance providing for the grant of a franchise to operate a Cable Television Communications System in the City of Fort Wayne, Indiana, and providing for regulation of said system.

Copies of said Bill No. G-76-05-08 are posted in the following public places in Fort Wayne, Allen County, Indiana:

(a) The main floor lobby of the City-County Building

(b) The bulletin board in the lobby at the east door of the Allen County Court House

(c) The bulletin board in the lobby of the Downtown Fort Wayne Public Library

Copies of said proposed ordinance are also available for reading in the following public places in Fort Wayne, Indiana:

(a) Reference Room in the north end of the main floor in said Downtown Fort Wayne Public Library

(b) The Journal of the Common Council Proceedings in the Office of the City Clerk of Fort Wayne, Indiana, Room 122, City-County Building, Fort Wayne, Indiana

CHARLES W. WESTERMAN
City Clerk of Fort Wayne, Indiana